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SUPPLEMENTAL TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1935

No. 268

THE SUGAR INSTITUTE, INC., THE AMERICAN SUGAR REFINING COMPANY, MARGARET A. JAMISON, ET AL., APPELLANTS

vs.

THE UNITED STATES OF AMERICA

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK

FILED JULY 22, 1935

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UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

E-59-103

THE SUGAR INSTITUTE, INC., ET AL., APPELLANTS

against

UNITED STATES OF AMERICA, APPELLEE

Praecipe for additional portions of the record

The clerk of the United States District Court for the Southern District of New York will please prepare the following additional portions of the record in this cause, which portions were not included in appellants' praecipe of July 3, 1935, and certify the same to the Supreme Court of the United States:

1. The attached narrative statement of testimony relating to the subjects described below, said narrative statement being taken from the testimony of appellants' and appellee's witnesses at the pages indicated:

A. Fines and penalties:

Sherman L. Brown, Rider 1 (p. 1330).
C. A. Humphrey, Rider 2 (p. 2814).
Wilbur L. Cummings, Rider 3 (pp. 5047–5054).
Martin Goetzinger, Rider 4 (pp. 5397–5401).
Henry E. Worcester, Rider 5 (pp. 5581–5588).
Louis V. Place, Rider 6 (pp. 8216–8219).

B. Attempted bribes by Chinal, institute investigator:

(1) The Detroit Incident:

Harold L. Brown, Rider 7 (pp. 893–899).
Harold L. Brown, Rider 8 (pp. 945–948).
Harold L. Brown, Rider 9 (pp. 952–998).
Harold L. Brown, Rider 10 (pp. 1022–1025).
Harold L. Brown, Rider 11 (pp. 1028–1030).
Helen V. Winans, Rider 12 (pp. 1044–1053).
William L. Patterson, Rider 13 (pp. 9332–9339).
Laura M. Snider, Rider 14 (pp. 9352–9362).
Frank Duffy, Rider 15 (pp. 9366–9373).
Daniel McFarren, Rider 16 (pp. 9384–9404).

(2) The Indianapolis incident:

Eugene O'Riley, Rider 17 (pp. 1130–1134; 3996–4039).
George D. Champion, Rider 18 (pp. 3217–3237).

C. Blacklisting of Olender and other sugar distributors:

Louis v. Place, Rider 19 (pp. 7611–7721).
Evan T. Fisher, Rider 20 (pp. 7525–7544).
John L. Many, Jr., Rider 21 (pp. 8740–8743).
Charles B. Castle, Rider 22 (pp. 8943–8951).
Martin Goetzinger, Rider 23 (pp. 9317–9322).
Mark W. Lowe, Rider 24 (pp. 9326–9328).
John W. Lowe, Rider 25 (pp. 9856–9857).

2. Appellee's exhibits:
   - 265–268, inclusive (relating to fines and penalties).
   - 402–402c, inclusive (relating to fines and penalties).
   - 403, inclusive (relating to fines and penalties).
   - 403a, inclusive (relating to fines and penalties).
   - 404–404b, inclusive (relating to fines and penalties).
   - 405, inclusive (relating to fines and penalties).
   - 406, inclusive (relating to fines and penalties).
   - 414–414p, inclusive (relating to blacklisting of Olender, a sugar distributor).
   - 419–l–2 (relating to blacklisting of customers).
   - 419–m–2 (relating to blacklisting of customers).
   - 419–v–3–419–w–3, inclusive (relating to blacklisting of customers).
   - 419–a–4 (relating to blacklisting of customers).
   - 419–d–4 (relating to blacklisting of customers).
   - 419–e–4.
   - 446 (relating to Western Sugar Refinery's withdrawal from a competitive area in the South).

3. Appellants' exhibits:
   - G (relating to Chinal conversation regarding bribe).
   - H (relating to Chinal conversation regarding bribe).
   - O (statement of savings account).
   - T (relating to beet sugar differential, Edgar letter).
   - R1 (Chinal's check of $1,260.59).
   - F6 (relating to credit meeting).
   - G6 (relating to contract enforcement).
   - H6 (relating to contract enforcement).
   - I6 (relating to contract enforcement).
   - J6 (relating to blacklisting of customers).
   - X7 (relating to blacklisting of customers).
   - Y8 (list of buyers blacklisted).
   - Z8 (list of buyers blacklisted).
   - A9 (sales to blacklisted buyers).
   - T9 (Revere's sales to blacklisted customers).
   - B–10 (summary of blacklisted customers).
   - C–10 (Arbuckle's sale to blacklisted customers).
   - M–10 (deliveries to blacklisted customers).
   - J–16 (summary of blacklisted customers).
   - N–17 (McCahan's customers receiving concessions).
   - Q–17 (McCahan's sales to Olender).

4. Stipulation regarding accuracy of narrative statements.

4a. Order.

5. This praecipe.

WALTER L. RICE,
Solicitor for Appellee.

Service of the foregoing praecipe and receipt of a copy thereof this third day of July 1935 is hereby admitted and acknowledged.

SULLIVAN & CROMWELL,
Solicitors for Appellants.

I. ADDITIONAL NARRATIVE STATEMENTS DESIGNATED BY APPELLEE'S PRAECIPE

A. FINES AND PENALTIES

RIDER 1:

(1330) He said: "If I do that, the first thing you know some of the investigators will be checking through our books and find out about it and fine us a heavy fine for violating the rules."

RIDER 2:

(2814) I received from American a copy of Government's exhibit 265 having to do with fines and penalties. I never received any notice that that was withdrawn.

RIDER 3:

WILBUR L. CUMMINGS

(5047) Referring to the minutes of the executive committee of November 27, 1928, I did not advise that fines and penalties were illegal but I deprecated the adoption of the resolution and advised that the fines and penalties could not be collected under the corporation laws of New York. I do not recall whether Judge Ballou got that information from the Department of Justice or whether he heard it from the outside. The Department never told me it disapproved of fines and penalties. I never learned of it until they started (5048) some case in which they alleged that to be one of the illegal factors. The resolution was never finally adopted. It was never part of the code because it was never approved. It was printed as a resolution adopted by the board of directors.

(5049) At a members' meeting on June 19, 1930, the members adopted a resolution recommending this provision to the board of directors. Colonial did not vote, desiring to reserve decision. It was an unwritten law of the Institute that nothing went into effect unless it was unanimously adopted, either by the members or the board of directors. This was recommended by the members to the directors. It was not adopted at the members' meeting. Colonial did not vote, as shown by the minutes. C. & H. withdrew its consent to the resolution. It had a majority vote that under (5050) the rule it was not effective or operative. Nothing was ever adopted in the Institute, no regulation, no resolution of the members, no interpretation of the code, ever became effective or operative, unless it had the unanimous vote.

There is in the files a letter from Bartlett of Colonial in which he says his company would not be bound and also one from C. & H. All the rest of them adopted the resolution in the sense that they voted for it. Referring to exhibit 430–A, Taylor was in error when he wrote the letter and laboring under the same error when he printed the resolution I referred to.

(5054) Referring to exhibits 404, 265, and 402, I did not know the refiners had sent these announcements until now. I know nothing about them.

RIDER 4:

GOETZINGER

(5397) A resolution was passed by the Institute to set up machinery to impose fines and penalties upon members for breach of any of the provisions of the code, but it never became effective because one of the members took exception to it at the very meeting at which it was proposed and another gentleman representing the C. & H., as soon as he returned there, found it was not approved by his principals (5398) and he dissented. It was never carried into effect. I voted in favor of it but did not regard it as an obligation because it did not become one. At the time I voted on it I expected (5400) it would become an obligation of the Institute. It did not pass. No committee on fines and penalties ever met. My recollection of this provision was that there was difference of opinion among us at the time as to just what had taken place at the earlier meetings. It is one of those things I did (5401) not follow closely. When the question of fines arose at a meeting there was a little difference of opinion as to whether or not the Institute had any authority under that resolution to inflict the fine. We never acted on the resolution.

RIDER 5:

WORCESTER

(5581) I personally felt at the time that the resolution concerning fines and penalties was adopted that there was enough of an obligation in the code of ethics and the interpretations adopted by the directors to justify the imposition of fines and penalties on any matter violating them, but upon thinking it over afterwards I doubted whether we had any such power. I voted in favor of a resolution providing for the imposition of fines and penalties. I never gave any notice of withdrawal from that action because the thing became inoperative at once. It never was put into effect at all. We wrote a letter to the Sugar Institute stating that we understood that it was inoperative, and we received a letter that it was operative, but we didn't believe it. At the time that letter was written I was away on the Pacific coast.

(5583) At the time that the resolution was passed, or was voted on, there were two members that absolutely refused to go along with it and that, of itself, in every other resolution that has ever been brought up in the Institute was enough to

(5584) nullify it. It is a fact that when the first member announced that he would not go along with it our Board specifically excepted it from the resolution, without in any way endeavoring to otherwise affect the resolution. Then later on another member announced that he could not abide by it and that, to my mind, entirely nullified the thing.

In other words, although our regular rules of unanimity of action had already been deviated from and one member had had the specific provision made for him that it was not applicable, I thought for some reason that when a second member said he would not abide by it that the resolution was entirely wiped out.

I have heard that during the month of July several of the refiners sent out complete notices of this fines and
(5585) penalties set-up to all their brokers. I don't know of any instance where these refiners ever withdrew their notices to their brokers. I would not be likely to.

(5587) The provision entitled "Code Revisions" in the minutes of the adjourned meeting of the directors, January 30, 1931, purports to rescind only paragraph A of the resolution. That would, of itself, rescind B because B depends upon A and if A had never been in effect, B would naturally be rescinded at the same time. The other provisions of the code are preserved.

(5588) We appreciated that if, at any time, we did not feel that we could follow out the code and the resolutions of the Institute, we might resign. If we found that we could not actually follow them, we would either resign or have action taken to have them changed so that we could follow them. There was never a question of hard and fast adherence to any of these things.

RIDER 6:

PLACE

(8216) The special meeting of the board of directors on June
(8216A) 19th, 1930, was the meeting when they tried to put in fines and penalties. I voted for it. Someone made a report as to the meeting of the members and this resolution was put before us.

(8217) The directors' meeting was called on June 19th, and carried over to the next day.

(8219) I do not remember who made the motion for fines and penalties. I think that was a report made by either an individual or a committee as to a recommendation made by the special members' meeting which occurred on the same day, June 19th.

B. ATTEMPTED BRIBES BY CHINAL INSTITUTE INVESTIGATOR

1. THE DETROIT INCIDENT

RIDER 7:

BROWN

(893) I was offered a bribe by Chinal. He said that he knew that I had access to things that he was looking for and that it would be worth fifty or one hundred thousand dollars to the Institute to get that information or those particular
(894) papers. He put in a call from my office and talked to Mr. Patterson. He said, "Don't say anything, just answer 'yes' or 'no.' Regarding the matter we were talking about, I think we ought to get some action pretty quick." He suggested that Patterson come down and talk to me. Patterson did not come out. Chinal told me that he talked to Patterson the night before over the phone.

(895) The original offer of bribe took place in a speakeasy in Detroit. Chinal was discussing what he was trying to get with reference to Edgar's records and wanted something to incriminate Edgar. He mentioned he would like to know of sugar coming into Detroit by water and of being shipped out again under transit privileges of rail cars. He wanted any other transit billings that had been misapplied. We discussed pro and con how the money would be paid. He suggested that the money be put in Canadian funds or in Cuba, to cover it. The bribe was never paid.

(896) Chinal said that he personally would not handle the matter because it was too big for him to handle; that he thought either the attorneys for the Institute or Patterson or Taylor
(897) should handle the matter. He said he would find out from the Institute what they were after and how much they
(899) would pay. I heard the conversation of Chinal with Patterson and my secretary also heard it as I told her to take the conversation down in shorthand on the extension.

RIDER 8:

BROWN

(945) Chinal and I ate together quite often, maybe once or twice a week, in different places. We dined in hotels and in speakeasies. I am a drinking man, but Chinal, who is slight and rather frail, could not handle liquor as I could.

(946) Chinal stopped his investigation toward the end of March 1931 and did not return to Detroit until some time early in May. He remained there off and on for about a month. It
(948) was on his return to Detroit in May 1931 that the alleged bribery incident took place. Chinal felt that there was incriminating evidence in our files (Detroit Harbor, Inc.) in relation to water-borne sugar and also in relation to transit records, and felt that the Institute would pay considerable money to get information to incriminate Edgar. This was about a week after he returned in May.

RIDER 9:

BROWN

(952) During this period Chinal and I lunched together two or three times a week. The bribe offer was made approximately May 13 or 14. It was made in two places, Nolan's speak-easy and Chinal's hotel room. When I took Chinal to his
(954) room that evening he tried to get in touch with Taylor or Patterson on long distance, but he did not succeed while I was there.

There was no one with me at the time Chinal first made
(955) the proposal at the speak-easy. Before Chinal made the offer he had four or five drinks and I had as many. He said that if he could get any incriminating evidence on bills of lading on illegally transited sugar he felt sure the Institute
(956) would be willing to pay for it and he would call up and find out how much they would pay and the amount of documents they would have to have. We had lunch at 4:00 o'clock and were in the speak-easy about two hours. After
(957) leaving there we went to my office and later to his hotel.

I agreed that this information would be valuable to the Institute but I did not know whether I had the records he wanted. I was not ready to sell the records. In fact, I discussed with Beebe the next morning making up fake records to give Chinal.

(958) Chinal was not sick in the speak-easy but he became so after we went back to the office. I told him to get some Bromo Seltzer and after half an hour Chinal sobered up and was able to get around and at 6:00 o'clock I took him to his
(972) hotel and up to his room. I don't think anyone helped me take Chinal back to the hotel. I now recall that McFarren
(973) drove down to the hotel with us. He is a cartage man for the warehouse. We were in Chinal's room possibly half an hour. Chinal was not asleep when we left and the next morning
(974) he said he had put through some long-distance calls. I told McFarren to listen closely to what Chinal said about the money. Chinal talked about this money in McFarren's presence in the room. We discussed the amount and talked about the necessary price.

We went over the thing probably a dozen different times
(975) in the course of two or three days' conversation. On several occasions McFarren drank with Chinal and me at Nolan's and other places.

(976) That evening in the hotel I did not hear Chinal talk to anyone in New York. After leaving the hotel McFarren
(977) went home and I returned to the office for half an hour. Then I drove over to the apartment where my secretary lived
(978) and asked if she could make a copy of some of Chinal's records. She was unable to do so. Beebe or Edgar was with me

(979) at the time but my secretary did not know it. Since she was unable to do so we had photostatic copies made of the records. These records contained a number of typewritten reports covering bills of lading that Chinal was investigating in the house. Some were on Chinal's desk and some in his portfolio. The papers were a copy of a report that Chinal
(982) was submitting to Patterson or Taylor. That is all that we copied. The photostating was done the same night and the photostats were delivered to Beebe that night. Chinal's papers were returned to his desk and as far as I know he never learned they were photostated.

The morning after the night in the hotel I saw Chinal in my office and we discussed the bribe again. I do not know
(983) which one of us opened the question. I asked what he had accomplished in the telephone conversation the night before and he did not recall what Patterson said, so I asked him why he did not phone at once. He offered to go back to the hotel but I told him I would allow him to put in a call from my office. He put in the call and I heard the conversation. I was sitting in the same room with him at the same desk. I had arranged for my secretary, who was in the room adjoin-
(984) ing my office, to listen in on her extension. I had also arranged for her to take down the conversation. She transcribed the notes and brought them to me shortly after the conversation. I attached her memorandum to a memorandum I had made with reference to the bribe and put it in an envelope in the safe of the Detroit Harbor Terminals where it remained until I received a Government subpoena.

(986) The telephone conversation in my office was about the last
(987) I had with Chinal. Shortly thereafter he left. I don't
(988) think we talked about the bribe after the day he talked with Patterson. McFarren was present when the bribe was dis-
(989) cussed in Chinal's hotel room and that same afternoon in Nolan's speak-easy. He sat down with us and in his presence Chinal discussed the bribe. I do not think Chinal
(990) would have discussed it with McFarren sitting there if he had not been drinking. This afternoon in the speak-easy was the first time the bribe had been discussed and I did not lead him on by suggesting I would be the willing recipient
(991) of such a bribe. He opened the conversation first.

(992) The bribe was first discussed in Nolan's speak-easy and we also discussed it in Witt's. We were in both places
(993) within one or two days and it may have been that we were in Nolan's first. The day that Chinal became sick we were
(994) in Witt's and not in Nolan's so that the Nolan conversation was the following evening. The Nolan conversation was around 11:00 o'clock at night and McFarren was present. As far as I know he came into Nolan's by accident just as he
(995) came into Witt's on the first day. McFarren went with us

(996) from Nolan's to the warehouse and then to the hotel. I cannot say positively whether he went with us or whether he came afterwards.

(997) The memorandum I made concerning the bribe was dictated to my stenographer and transcribed the next day which made two or three days after the conversation with (998) Chinal. I set forth in that memorandum what I thought was of interest, that Chinal made the bribe offer and I specified in longhand that McFarren had been in on that conversation or on one or two of them.

RIDER 10:

BROWN

(1022) On the evening following the first speak-easy conversation I phoned Chinal at ten o'clock at night at his hotel and (1023) invited him over to Nolan's speak-easy, but I did not invite him for the purpose of renewing the bribe conversation. I do not recall whether McFarron came in afterwards or was present at the time, but he was not there by prearrangement.

I had no revolver at that time, as I never carry one. I did take a revolver away from McFarron and gave it to Nolan. McFarron was in the habit of carrying one to (1025) protect his pay roll. He had had plenty to drink, but I would not say he was intoxicated.

RIDER 11:

(1028) I wrote the following memorandum, which is defendants' Exhibit H:

"In talking with Mr. L. Chinal, representative of the Sugar Institute, this afternoon, he thinks that there is no question but what the Institute would be willing to pay dearly for any information which would give them evidence or cause for criminal action against W. H. Edgar & Son. In the course of his conversation, he talked from one hundred thousand to two hundred thousand dollars. He advised the thing to do, if the writer was interested, would be to call Mr. Taylor, head of the Institute, and tell him just what the situation was and that he would suggest that the lawyers come out here if they were interested and open negotiations with me. Drove him back to room 1483 at the Fort Shelby and put him to bed and he put in a call for Mr. Taylor, whom they reported was out for a walk; he also called Mr. Patterson, who also was out. This morning he advised he talked to Mr. Patterson last night, but forgot what he called him for. He put a

call in for New York and talked to Patterson and attached is a copy of his conversation. He advised that letter of credit of irrevocable funds would be established in the Bank of Windsor or to have the funds transferred to any bank agreeable to the writer if negotiations were completed."

I made the following notation at the bottom:

"My personal opinion is that this proposition is being made with the idea of discrediting with the Institute and refiners by creating the idea that we know something and will only double-cross Edgar if there is money involved for me personally. Advised Beebe and Edgar. Also McFarran heard conversation yesterday afternoon."

(1030) Defendants' Exhibit G is a transcript of the notes taken by my stenographer and is as follows:

"Say nothing, just turn this over in your mind. I just had a talk with Harold Brown; believe I can talk to him. He says he can probably give us what we want, see? He has, of course, negotiations that should be considered. He will give you what you want; you can come up and do the negotiating or decide what you would like to do. He will negotiate with you fairly and if not, throw it overboard; you can decide about if you want to come up and go into it or not. Have no more to say, get me, but let me know what you are going to do."

RIDER 12:

(1044) HELEN V. WINANS was called as a witness on behalf of the petitioner.

Direct examination by Mr. RICE:

A year ago I was private secretary for Harold L. Brown. I saw Louis Chinal in the Detroit Harbor Terminal offices when he came in to start his investigation. I took stenographic notes of a telephone conversation between Chinal and Patterson in May 1931, at Mr. Brown's request. Defendant's exhibit G is the document that I copied and put down. The record does not include Mr. Patterson's conversation because what he said was not significant enough to put on paper. His answers were, yes and no, as far as I can recall. I wrote it out immediately after I heard the conversation.

(1047) In January 1932, Mr. Spencer, an Institute representative, called me and asked if he could talk to me. I was unable to see him and 4 or 5 days later he came to my office and wanted to know if I knew anything about a bribe having been offered to Mr. Brown by Mr. Chinal.

Cross-examination by Mr. HIGGINS:

(1051) My information about the whole transaction came from Mr. Brown. I never heard Mr. Chinal make any proposal to Brown nor was I present when they were discussing such a matter.

(1053) I did not see Brown put the notation on exhibit G, nor do I know when he put it on.

RIDER 13:

(9332) WILLIAM W. PATTERSON was called as a witness on behalf of the defendants.

Direct examination by Mr. MCGRATTY:

I am assistant to Taylor and have been associated with the Institute since March 1928. During the period of my association, I have never suggested to any refiner that he advance, maintain, or decline his price. I have never heard Taylor, Fisher, or any person connected with the Institute suggest to any refiner that he advance, maintain, or decline his price. No refiner has ever suggested to me that I ask any refiner to advance, maintain, or decline his price. I have never heard any refiner ask Taylor, Fisher, or anyone else connected with the Institute to intercede with any refiner and ask that other refiner to advance, maintain, or

(9333) decline his price. At the various Institute meetings that I have attended, I do not recall ever hearing any conversation or discussion with reference to advancing, maintaining, or declining prices.

I recall a conversation with Louis Chinal on the evening

(9334) of Thursday, May 14, 1931. Shortly after midnight my phone rang at my home and the long-distance operator said long distance was calling me from Detroit. A few minutes later, Chinal's voice came on the line. I was surprised that he was calling me. He stated in substance that he had just been through a very frightful experience, and he seemed quite agitated and upset. It appeared that he had taken luncheon with Brown on that day, that he had two cocktails and the next thing that he remembered was that he woke

(9335) up in his room at the hotel that night. He said he was sure they had put knockout drops in his drinks. He then said that Brown had approached him with the idea of selling the Institute certain documents covering five cars of sugar which it was alleged had been illegally transited, documents which Brown had promised to give us when he was in New York a month or so previously. With that in mind Chinal had gone to Detroit. And he further told Chinal that he had enough other information to hang Edgar. Those were his words. I told Chinal that we would not

countenance such a thing, and he said he had told that to Brown.

(9336) I was shocked at Chinal's statements and I told him that I believed this was a trap, that he should be exceedingly careful in any conversation he might have with Brown or any employees of the warehouse, and that I thought it was a plan to discredit the Institute. I told Chinal we were not interested. The next morning I immediately reported to Taylor everything Chinal had told me in my conversation with him. Taylor was also upset and suggested I immedi-
(9337) ately get in touch with Crosby at Sullivan & Cromwell, which I did. Crosby told me the next time I talked to Chinal to again tell him we were not interested and suggest, in view of Brown's attitude, that Chinal be called back from Detroit.

I received another phone call that morning from Chinal. He said, "This is Louis calling; just answer me yes or no." The substance was that Brown had again approached him with the offer to sell these documents and records to the Institute, and that Brown desired me to go out to
(9338) Detroit to negotiate the deal. Chinal was very guarded. He was in Detroit Harbor Terminal. Brown was there, and Chinal was following my instructions to be very careful. My remarks were limited to yes and no, acknowledging I heard him and in conclusion I said that we were not interested and hung up the phone. I did not go to Detroit subsequent to that time and discuss the subject with Brown. I have never discussed the subject with him. I have never said anything or intimated to Chinal that he should offer any sum of money whatsoever for documents in Brown's possession. I have never heard Taylor, Fisher, or anyone else connected with the Institute say anything to Chinal that would lead him to believe he was authorized or empowered to offer money or sums of money to Brown for any documents in his possession.

(9339) Chinal returned from Detroit shortly after that. He did not bring the documents that had been promised by Brown when he was in New York in March.

RIDER 14:

(9352) Miss LAURA M. SNIDER was called as a witness on behalf of the defendants.

Direct examination by Mr. McGRATTY.

I was employed as manicurist in a barber shop at the Hotel
(9353) Fort Shelby in Detroit, Michigan, during May 1931. Frank Duffy was employed as a barber in that shop at the same time. Sandifer was the head barber in charge of the shop.

(9354) Duffy and I were called up to Louis Chinal's room about 6:30 or a quarter to seven one evening in May 1931. When
(9355) we reported at the room, there were two men there, Chinal and another man. Chinal was in bed and he seemed very
(9356) sick. The other man in the room, whose name I did not know at the time, was short and heavy set. A few days
(9357) afterward I was informed by Sandifer that his name was Brown. Duffy started shaving the short, heavy set gentleman and I started to manicure.

(9358) There was a conversation between Chinal and the other man. The other man started naming sums of money, like $50,000 to $200,000, and he wanted Chinal to sign papers. He also said he would put up a trust fund of $50,000 for Chinal's children. Chinal said he came in this world clean
(9359) and he wanted to stay a clean man. Chinal seemed very angry and upset. During the time I was in the room Chinal did not leave the bed or pick up the telephone. The short heavy gentleman called New York several times while I was in the room. Chinal tried to persuade him not to phone.

(9360) McFarren was not in the hotel room that evening. There was no one other than myself, Duffy, Chinal, and the short heavy gentleman. Chinal did not appear to be in condition to leave the bed while I was in the room. Duffy gave Chinal a shave and I gave him a manicure. He was
(9361) not able to sit up. The bill for the services rendered by Duffy and myself to Chinal and the short heavy gentleman was $5.50. He gave us a $10 bill and told us to
(9362) keep the change. Chinal did not appear to be intoxicated. I could not smell any liquor on his breath. Duffy and I left the room about a quarter to eight.

RIDER 15:

(9366) FRANK DUFFY was called as a witness on behalf of the defendants.

Direct examination by Mr. MCGRATTY:

(9367) I was working at the barber shop at the Fort Shelby Hotel in Detroit during the period between February and July 1931. Laura Snider was employed as a manicurist in the barber shop at the same time.

(9368) Miss Snider and I got a call to go to Louis Chinal's hotel room about a quarter to six one evening in May. We were in his room approximately from 6:00 to 8:00 o'clock. When we arrived there was another gentleman, a heavy
(9369) set man, with Chinal. I did not know his name at the time. I shaved him about three weeks later and learned his name the second time. When I went into the room,

the short heavy gentleman was walking around. Miss
(9370) Snider and I started to work on Chinal. While we were working on Brown, he was talking to Chinal about some papers. He was talking in big figures. He said he would give Chinal $250,000 and establish a trust fund of $50,000 for his children. Brown was doing the talking all the time. Chinal did not seem to think much of the proposition. He was in such a condition that he wanted to get away from it. He didn't want to talk about it. He said he came into the world clean and wanted to stay that way, and something about children—that he wanted to remain true to them.
(9371) Chinal acted as if he were sick. I do not know what was the matter with him. He did not act as if he were drunk. To me, it looked more like he was doped. I have seen doped men. He seemed to be in a stupor, kind of mumbling, nothing connected in his conversation. I did not smell liquor on his breath.
(9372) After finishing working on Brown we devoted our attention to Chinal. We had to change his position in order to get at him to work. He did not seem able to move himself. I shaved Chinal while he was lying in bed. While I was in the room he did not leave the bed. He did not put through, or try to put through, any phone calls. Brown tried to call New York. I could not say exactly how many calls he put through. I do not think there were any phone calls made from that room the evening while I was there.
(9373) McFarren was not in the hotel room that evening. There was nobody else in the hotel room beside Miss Snider, Chinal, Brown, and myself.

RIDER 16:

(9384) DANIEL MCFARREN was called as a witness on behalf of the defendants.

Direct examination by Mr. MCGRATTY:

In 1931 I was president of the McFarren Forwarding & Distributing Company. My office was on the main floor of Detroit Harbor Terminals' building. I am acquainted with Harold Brown, manager of the Detroit Harbor Terminals. I have known him from 2 to 4 years. I am acquainted with Louis Chinal.
(9385) I do not remember the exact date but I recall very
(9386) very well an afternoon when Brown, Chinal, and I stopped in a speak-easy and had some drinks. The speak-easy was
(9387) on West Fourth Street and run by a Jimmy Nolan. We had 3 or 4 drinks and were in there probably an hour or so. During the time I was in Nolan's that afternoon I did not hear any conversation between Chinal and Brown with

reference to a bribe or with reference to the payment of money by either Chinal or his employers to Brown in exchange for documents in Brown's possession. I am positive about that. We were just talking and drinking. All three
(9388) of us were together the entire time that we were in that place. We went together, stayed together, and came back together.

After we left Nolan's and went back to the warehouse I
(9389) went back to my office and I supposed they went to theirs. We were all all right. I do not think Chinal was drunk. All three of us went to that speak-easy a good many times.
(9393) I went to the main warehouse office at 5:30 that afternoon. Chinal was sitting at a table over by a window with his head on a table. I was told that Chinal had been awfully
(9394) sick and had been vomiting in the lavatory all afternoon. I went on home.
(9396) On none of the days except the one I mentioned when we went to the speak-easy did I find Chinal looking this way. It only happened once.
(9399) I did not drive to the Hotel Fort Shelby with Chinal and Brown on the afternoon that I have been speaking about. I have never at any time been in any room in the Fort Shelby Hotel with Chinal or Brown. I have never heard Chinal offer a bribe to Brown nor have I heard at any time any conversation between them regarding the payment of money by Chinal or his employers to Brown for documents in Brown's possession. I testify to that on my
(9400) solemn oath. Brown did not tell me on that afternoon or evening or at any other time that he wanted me to listen to any statements that Chinal might make in reference to the payment of money.

Cross-examination by Mr. RICE:

At the time of one of these speak-easy visits Brown told
(9403) me to listen carefully to what Chinal might say. I cannot say where Brown said that. Brown said he was going to talk to Chinal and asked me to listen to the conversation because he might want me to become a witness to what he said. Brown told me to listen to what they talked about if
(9404) they talked about any business. Brown and I solicited business together, he for the warehouse and I for the trucking end of it.

2. THE INDIANAPOLIS INCIDENT

RIDER 17:

O'RILEY

1130) In August 1930 I went to lunch at the Virginia Sweet Restaurant in Indianapolis with Messrs. Folwell, Tremaire,
1132) and Champion, employees of Edgar. Louis Chinal entered the restaurant and I invited him to sit down with us. These fellows were riding him and I told him I thought he was going after the pikers in the sugar business with a high-powered rifle and the fellows that were really doing these things were the refiners themselves and he was going after them with a popgun. Champion told Chinal he was a heck
1133) of an investigator and asked Chinal if he found anything wrong in his examination of the D from C records. Chinal said he did not find anything. Champion said he was a heck of an investigator and that there was something crooked in those records and said to Chinal, "You wouldn't turn in the American, would you? You don't want to." Chinal said he would turn in his own brother if he found him. They kept kidding him and Champion kept on riding him,
1134) saying that he did not know his business or he would have found those D from Cs. Finally Chinal said "I will bet you a thousand dollars, if you will turn in American, if you can show me where it is wrong." Champion told him he did not have that much money, that he could not afford to give him a thousand dollars, and he said, "Well, the Institute will pay you." With that Chinal pulled out of his pocket a check for $1,250 and threw it on the table. He said it was his expense account from the Institute and I was going to ask him to get me a job.

EUGENE J. O'REILEY was recalled as a witness on behalf of the petitioner.

Redirect examination by Mr. RICE:

3996) On direct examination I did not testify that Chinal said at the luncheon in the Virginia Sweet Restaurant: "I will bet you a thousand dollars if you will turn in American." My testimony was that Chinal said: "I will get you a thousand dollars, if you will turn in American." I am certain that I did not testify that he used the word "bet" instead of "get." Prior to the time I first testified I prepared a memorandum in Mr. Rice's office which said:
3997) "Chinal jumped to his feet and pulled out a check from his pocket and said 'I will give you a thousand dollars if you will turn in American.'"

Recross examination by Mr. HIGGINS:

4035) The only part of the record I followed was the testimony as it appeared in the New York Journal of Commerce and

in the transcript of my own testimony that I got while I was
(4036) in court. I did not read this testimony with any care but just glanced over it. The reason why I bought it was that it was my first experience on the witness stand and I wanted to see what kind of a witness I made.
(4037) The error in the word "bet" came to my attention when I arrived in Chicago. I could not figure this word out be-
(4038) cause it did not make sense. I called the attention of Mr. Rice to this error the night I got the transcript in his office.
(4039) I told Government counsel that I did not think I said "bet" because the real word that Chinal used was "give." I was excited that day on the witness stand but I am positive that I did not say it.

RIDER 18:

(3217) GEORGE D. CHAMPION was called as a witness on behalf of the petitioner.

Direct examination by Mr. FLY:

In the summer of 1930, I was manager of the Indianapolis office of W. H. Edgar and Son. On July 11, 1930, I had lunch at the Virginia Grill, in Indianapolis, with Chinal, Eugene O'Reiley, Coburn, Tremear, Farrell, and Metzger.
(3218) Chinal and O'Reiley had a conversation regarding W. H. Edgar and Son and American. O'Reiley made the remark that the big factions in the sugar business could get away with murder. He stated that he believed that American were the fathers or founders of the Institute and that it would be up to Chinal to see that there were no reports handed in to the Institute on any irregularities that he might find with regard to the business of American. Chinal said he would not prostitute his job by withholding any such information in his investigation.
(3219) At that point I jokingly asked Chinal what he would do if I should show him where Edgar and Son and American had been making irregular practices. Chinal became quite excited and pulled a check out of his pocket, tossing it on the table, and said it was worth that to him. I picked up the check and looked at it. It was drawn by the Institute, payable to Chinal for a thousand dollars or more. Some
(3220) one made the remark that Chinal could not produce a thousand dollars. Chinal said the Institute would back him up in any such procedure. Chinal made the remark in justifying himself that the end justified the means.

After the party had left the luncheon I started back for the office alone and Chinal hailed me on the street. He told me that he did not believe I was joking about showing any irregularities but that he expected that I had become frightened at the offer and had backed down. I denied this

and told him that my offer was not serious and apologized for causing the disturbance. He pulled the check out of his pocket and repeated that he was quite serious, that he believed there were some irregularities and that he was quite willing to make good his offer of this thousand dollar check. I told him there were no such irregular practices.

(3221) Subsequent to the street conversation, Chinal, either on the same afternoon or a few days later, telephoned me with regard to some D from C records and again brought up the matter of the check. He assured me that I would not get into any trouble by accepting his offer. I repeated what I told him before, that my offer was not serious and that there were no such irregular practices.

(3222) Either the next day or the next week, Chinal came to my office and repeated what he told me in the street; he told me that I could save him a lot of work looking up these D from C's, that he suspected, if I would accept the check.

(3223) He pressed the proposition that he had made before with regard to the thousand dollars. A week or two later after the lunch at the Virginia Grill, I talked with Chinal on the mezzanine of Chinal's hotel. Chinal told me that the Edgar Indianapolis Branch had been pretty smart in covering up irregularities; that he could use me as an investigator, offering me a hundred dollars a week. He stated that he was drawing a thousand dollars every two weeks from the Institute, plus expenses.

(3224) I asked Chinal if I accepted the job whether I would have to betray Edgar by giving information which might help with regard to Edgar operations. He laughed and said: "Well, if you are working for me or for the Institute you will certainly be obliged in giving us information in all directions." He said I would work for him but with the full knowledge of the Institute. I did not accept the proposition.

Cross-examination by Mr. PECK:

I am manager, at the present time, of the Buffalo branch of Edgar and Son. I reported the Chinal conversations to Beebe within a short time after they occurred. Later on I reported them personally to Edgar. Chinal did not say

(3229) at the Virginia Grill luncheon: "I will bet you a thousand dollars"; he did not use the word "bet" at all. I did not open the conversation concerning American, but I may have stated later on that Chinal would not turn in the American.

(3237) I am mistaken that the check was for a thousand dollars, although previously I was quite sure that the check was for that amount. Apparently the check was for twelve hundred fifty dollars.

C. BLACKLISTING OF OLENDER AND OTHER SUGAR DISTRIBUTORS

RIDER 19:

PLACE

(7611) In the period prior to the Institute when a buyer refused to take delivery of his sugar under his franchise and there was no reasonable excuse or extenuating circumstance, a notation was made on our credit card to the effect that (7613) we did not care to do business with this buyer any more. We made a notation on our credit card that such and such a buyer was blacklisted.

We used the word "blacklisted" and refused to do business with customers for reasons other than a default under a contract. We were very insistent on having our contract signed, and if a buyer refused to sign we would blacklist him. If the buyer's credit reputation was bad, or if we had any suspicion that his business might be illegal we would blacklist him. In those cases, we entered the nota- (7614) tion "blacklisted." on this credit card. The term has been used ever since I became connected with the company in 1921. This was the practice prior to the formation of the Institute—ever since I have been connected with the com- (7614a) pany back in 1921. The cards which you hand me are some credit cards taken from our files on which the word "blacklisted" is used.

(7617) Defendants' exhibit J–6 was received in evidence.

In the period prior to the Institute, the refiners' own (7618) experience was the only source of information to determine those customers who defaulted under their contracts or refused to accept delivery under those contracts. Prior to the Institute there was no mechanism for obtaining such information.

The subject of the clearance of information with respect to the performance of customers under their contracts was discussed at Institute meetings. At first, the Institute had asked for information as to buyers who were delinquent at the expiration of the contract period. This made a very voluminous record. At the September 25, 1928, meeting I (7619) remember seeing several drawersful of files containing this information. It was decided there that this was too cumbersome and did not serve any practical purpose and that some other method of clearing this information would have to be found.

(7623) The refiners considered that it was useful to have the information of buyers who were actually repudiating contracts. They did not find it useful and believed it was (7624) wrong to circulate names of buyers who were merely delinquent. The final decision was that the test would be whether the credit department of the refiner in question felt that

there were no extenuating circumstances and no valid excuse for failing to furnish specifications to the extent that the credit department of the refiner itself voluntarily and because of its own business reasons removed that particular
(7626) buyer from its own list of customers. Different members expressed different opinions as to the use to which the Institute members should put reports. I recall that at least two refiners said that in order for a member to make real use of this list he should, in any case where the name of a buyer that he was interested in was circulated, obtain the facts in back of the report that was made to the Institute so that he could, in his own judgment, determine whether or not that buyer should be continued to be sold.

(7645) Abbott, Hoodless, and I stated that this service would only be useful if members interested in the customer who
(7646) was applying for purchases would find out the facts. National said that they would have no use for such information; that they would be very glad to give the other members the benefit of their experience, but that they
(7647) themselves would not make any use of the list. It is my impression that two or three of the others present said that they felt the same way about it.

(7650) After passage of the resolution, I reported to the Institute the names of our customers. A total of 14 names were reported. After reporting such names, I thereafter made sales to those customers. Our practice both before the Institute and after was to resell a contract for the buyer,
(7651) establish a loss, setting that item up on our books, and send in an invoice for that difference to the customer. If he subsequently paid us the loss involved in the transaction, we would reinstate him on our list and after this resolution was passed we would so report to the Institute.

In our parlance, we had blacklisted them. We did not report to the Institute until after we had sold out a customer's contract and ascertained whether he would pay the damage. Only if he refused to pay the damage did we
(7652) report him to the Institute. We did not report delinquencies or breaches of contract as such. We would place the customer in breach of contract. We would send the invoice to him, and if he paid for it right away we would never have occasion to remove him right from our list of customers, and therefore we would not report him to the Institute. But if he failed to pay, then we reported him to the Institute as having been removed from our list of customers. The documents in exhibit J–6 were all before the Institute, and, in that case, we had no occasion to report them, but they were blacklisted. They were cases in which the customer refused to pay the damage after we had sold out their

(7653) contract. We subsequently reinstated eight of the customers and notified the Institute accordingly. In quite a number of the eight cases we did not subsequently sell the customer, but we reported to the Institute that we had reinstated them upon our list of customers.

In some cases we reinstated them but failed to make sales either because they did not apply to us or for some other reason. If a customer had refused to pay this loss, and we so reported and subsequently collected from him, we (7654) reinstated him and so reported to the Institute.

McCahan received from the Institute the reports of the names of customers sent to it by other refiners. They came to my desk, and I had them circulated to the various departments and then returned, whereupon I would send them to (7655) the credit department for their information and action. They asked me what they were to do with them. I said that these reports were merely for their information, that I wished them to make notations on their credit files of the fact that these customers had apparently had some trouble with other refiners, and that if those buyers at any time in the future should try to buy from us it was my opinion that they should try to find out from the Institute what the nature of the difficulty was that they had had with the other (7656) refiner who had reported them to the Institute, so that we might be guided accordingly. Mankin, of our credit department, asked me if I wanted them cut off our list on the basis of the report, and I said absolutely not, because we didn't know the basis for the report. I told the credit department to find out the facts and make its decision in every case.

(7661) Referring to the memorandum mentioned at the end of exhibit 414, I inquired at the meeting of the executive committee on May 29, 1930, what further information they (7662) could give me, and a representative of the Pennsylvania volunteered to give me the information. He said they had changed their credit terms with this customer, that the customer had refused to pay cash in advance, and therefore he did not believe he had been justified in removing that customer from the account.

(7663) With reference to exhibit 414, Lamborn requested us to consign sugars to them in Detroit, promising that they would be able to do a lot for us in the way of sales in that market. We did consign sugars to them and they started out in great style, giving us a very good volume of business. Shortly thereafter they succeeded in having National also consign sugars to them in Detroit and apparently they decided that National sugars were easier to sell in that market than McCahan. They proceeded to turn all the business they could get over to National. I assume that they did

that because, so far as we were concerned, we got no business. But appparently to show that they had not entirely abandoned us they allotted Olender to us, whom I considered
(7664) an undesirable customer. I did not think he was a high-type buyer. Furthermore, even though we do like small customers and like to get the volume, we do not like to be confined to one small customer in a market.

I figured that Lamborn had used us as a cat's-paw in order to get the National consignment and my recommendation to our organization had been that we throw Lamborn over and withdraw the consignment of stock in Detroit from their control. I had never been able to sell my associates the idea of throwing over a small customer. They
(7665) felt that a small customer was better than no customer at all. I refer particularly to Stanton and Krock, who were assistant vice president and assistant sales manager, respectively. They were my subordinates.

(7666) I had been urging them to withdraw from Detroit when this notice came from the Institute, showing that some other refiner had had difficulty with Olender, so I seized upon this opportunity to get Stanton and Krock to remove Olender from our list of customers. In doing that and in attempting to put over that idea, I probably suggested or intimated in these memoranda that there was some sort of commitment on our part to sell Olender. That was not strictly correct. I was distorting the facts to my own sales department. I admit it was not the correct thing to do.

(7668) I particularly wanted to get rid of the Detroit concern in care of Olender and the only way I could do it was to remove from our list of customers the only customer Lamborn was selling for us in Detroit. I didn't want to lay down the law and say we are not going to sell Olender.

The COURT. As I read exhibit 414–E that gives an inference of an obligation not to sell him and also the inferences of a perfect right to sell him if on investigation it turns out that blacklisting by the other fellow was proper and then you go on to suggest that the sales department go ahead and sell until they find out whether it was proper or improper. You find out that it was proper. Now, I am a little too dense to understand how you were trying to get rid of the Olender concern, whether you were telling them the real situation or whether you were putting one over on your own sales department.

(7669) I was trying to put one over and at the same time trying to be very sympathetic.

The COURT. But I confess to my mind reading what you say has just the opposite effect. If I was in your sales department and read that I would say you were trying to help

them sell but you were afraid the other fellows might kick and you didn't want to take any chances but you were hopeful that you would find out a certain situation as to the blacklisting by the other fellows, that they would not have a chance to kick and that you could sell them.

(7671) Referring to exhibits 414 to 414–E, the word "blacklist" as used there means removing from our list of customers in the same way we have always used that expression.

Weston, of Pennsylvania, used the expression before there was any possibility of blacklisting by concerted action. "Blacklisting" is the usual expression in Philadelphia.

(7674) The language in Government exhibit 414–E, concerning the understanding with Abbott, Hoodless, etc., is the part that I exaggerated. What I am referring to is the statement made at the meeting by Abbott, Hoodless, and myself that we should obtain further information regarding the circumstances concerning any customer being reported by a refiner to the Institute. I am referring to that but I was exaggerating for the purpose which I have already described and inferring in some way we are permitted to do that.

Cross-examination by Mr. RICE:

(7707) The notation on exhibit 414–F in the lower right-hand corner was Krock's. The meeting of May 29 to which Krock refers is the meeting at which I stated in my direct testimony that I had inquired for further facts regarding the listing of Olender and the representative of Pennsylvania who apparently must be Weston, from that notation, heard my question and volunteered the information which I passed on to Krock. The information did not come to Krock during the time we were exchanging these memoranda with him. That was after the conclusion of that exchange of memoranda. I told him about the meeting and he made the notation.

(7708) The upshot of this whole transaction was that we continued to sell Olender. My trick did not work though eventually my views prevailed and we withdrew the consignments from Lamborn's care in Detroit about a year or a year and a half after this. For a year or a year and a half after this transaction we continued to sell Olender and made our sales through Lamborn. Olender was our only outlet in Detroit.

(7710) My explanation of this series of documents in exhibit 414 is that I falsified to Stanton and Krock. That is not the way I run my business ordinarily, but whenever I can possibly turn a situation around where a fellow believes that he is doing a certain action because he wants to, rather than because I am dictating to him, I always let him do it that way.

(7711) Neither Stanton nor Krock made any statement indicating that they were anxious to sell Olender, but I know it was the desire of the sales department to sell as much as possible. I want them to feel enthusiastic about sales and don't want them to work up a customer, even a small one, and then tell them they can't sell him.

(7712) On my report as to what had happened at the Institute meeting of May 29, 1930, I made the statement to Krock that Weston stated at the meeting that Olender should not have been blacklisted. I don't believe that the copy of my notes which I referred to have been preserved because once the official minutes arrive there is no need for notes on it. Exhibit 414–X says "N. C." (meaning Norman Krock). "See my memorandum of meeting, May 29, now being typed." After this memorandum had served its purpose and after the official minutes had arrived I would have thrown it away.

The notation in exhibit 414–G was addressed to the stenographer. The notes would not be attached to this ex-
(7714) change of memoranda and would not be a part of this file because they were handled separately. This was an exchange of notes on a particular subject.

(7715) My recollection is that whenever I had memorandums of a meeting, it would cover all the subjects discussed at the meeting when it was of interest to the company and when the subject was something we had to act on—that is, some instruction to me regarding some action taken by the Institute meeting. I did not keep these memos. They were attached to the official minutes. When they arrived they were compared and, if they contained any discrepancy, I would write the Institute, suggesting a correction in the minutes. If they were the same the memos would be destroyed and the official minutes would remain. The memos were not minutes in any sense of the word. They only
(7716) covered subjects on which the various departments in my office had to take action.

The reason why there is no reference to this matter in the Institute meeting of May 29 is because I did not consider it, and I suppose nobody there considered it. I was asking for additional information. Mr. Weston happened to hear my inquiry and volunteered the information.

(7717) I cannot recall why this particular memorandum was destroyed, but my practice was to destroy the memos after the minutes arrived and after I had compared them. There was no reason for keeping them.

I could not tell you whether it was in the meeting or on the way to the meeting that I asked the question and Weston happened to hear. I didn't know at the time I

asked the question which refiner had blacklisted Olender. Other refiners were present and Weston stated that he had blacklisted Olender, but that he should not have done so. He went on to explain that he had sold Olender a quantity of sugar and had not specified at the time what the credit terms were and therefore presumably they were open terms. When the date for delivery actually came along they were not willing to give Olender open credit and Olender refused to take it for cash in advance.

(7718) At the time I talked to Fisher on May 28, 1930, he didn't tell me who had blacklisted Olender. I did not ask him. He told me Olender had refused to pay cash in advance for a quantity of sugar. I told him that I did not think that was sufficient cause for reporting a customer. Krock and Stanton were not present when I had that conversation with Fisher.

(7718a) I did not ask Fisher for permission to sell Olender. There was no question about my being permitted to sell him. I told him that I did not believe that report was in accordance with the resolution under which these names were being circulated.

(7719) I went to the trouble of arguing with Fisher even though this thing was a trumped up trick to deceive my associates because I was trying in every way possible to let my associates down as easy as possible.

The COURT: I do not understand it. If your associates were not present and they did not know it you could just as well have gone back and told them inasmuch as you were not careful to tell them the correct facts in any event where you thought it would do good not to say so—you could have just as well have told them that you went and argued the thing out and pointed out that they had no business to do this. But instead of that, which would have been effective, if you told your colleagues, to deceive them as to what you wanted to have them or not have them do, you actually took it up with Fisher and pointed out to him that which would have compelled you anon to sell the man again, which was just what you did not want to do although you wanted your colleagues to believe that you did want to do it, according to your testimony. What I cannot understand is why you couldn't put that notation on the letter without actually having talked to Fisher.

(7721) I wanted a foundation and I could not very well put that notation on the letter without telling something to Fisher about it.

I did not think Krock or Stanton would check up to see whether I had actually called Fisher. I did not think they would be listening on any branch telephone wire.

RIDER 20:

(7525) EVAN T. FISHER recalled.

Redirect examination by Mr. WYATT:

In March 1928 Judge Ballou told me he was thinking seriously of establishing a credit bureau and was waiting to interview two credit men whom he had in mind. I told him that on the basis of what we had discussed before as to the facts that could be obtained by the Institute and sent out to members that we did not need a credit man but that
(7526) we needed a statistician. No action was taken.

At the time we were receiving customers' names which were sent in once a week. They came to my attention and I filed them. The lists contained the names of customers together with the amounts of their unsatisfied balances after
(7527) the 30-day contract period had elapsed. The 37th day the refiners reported the names of their customers who had not withdrawn sugar in accordance with the contract.

In June 1928 Judge Ballou again sent for me. He told me the credit bureau had become a live issue and that he was calling a meeting of the credit men of the refiners, which he wanted me to attend. If at that time or any
(7528) time thereafter a credit bureau was established, I was to run it.

A meeting was held July 6 at the Princeton Club and the credit men of the New York and Philadelphia refiners and the credit men of Revere were present. Taylor and I represented the Institute.

The names which the Institute was receiving at that time
(7529) were not mentioned. Something was said about the collection of names by the Institute. We pointed out to the meeting that they could not obtain from the old established credit bureaus certain items of information which we felt were valuable. One of these items was the names of customers who habitually took off 2% discount two or three weeks after the discount period had expired, and the names of customers who were habitually slow in sending in specifications at the end of the contract period.

We had a long argument and the final result was that a committee was appointed. Quinn of National was chairman of a committee to study the subject further and say whether
(7531) the information we had outlined at the meeting was available.

The minutes of the executive committee of September 25, 1928, refer to a report of a committee of credit men.

I did not during any part of 1928 circulate to the members of the Institute any of the names which I had at that time in my file reported as delinquent on contracts. The first
(7533) list of those delinquent was sent out in January 1929.

We had printed a type of card. We put each buyer's name on a card, which had columns for 52 weeks on it, and then went back to all the reports and checked up every week that that buyer had been reported by any refiner. When we got through we went back over the cards and picked out all the names which had been reported more than ten times. We also picked out all the names that had been reported by more than one refiner. I made no comment on the names which were circulated, except to tell what they were. I made no suggestions as to how these lists should be used.

(7535a) Of the items listed in exhibit F–6 the only information which I circulated that was collected under these topics was item 3, "cancellation of contracts or violation of their terms."

(7536) This other material was discussed at that meeting but we never collected any information on it. Exhibit H–6 is an example of the list which I circulated.

All members did not report the names of the customers to me. National did not. I frequently asked them to report the names of such customers but they refused.

(7537) I had inquiries and requests from members in connection with things other than those circulated to them in connection with these customers. We informed all the members that we had this information and told them if at any time they were having any difficulty with a customer in sending in his specification or taking his sugar at the end of a contract period, we would be very glad to answer any inquiries whether any other refiner had the same trouble. We received one inquiry that I remember. It came from Spreckels.

He was apparently having trouble with a customer here in the metropolitan area of New York and he called up and asked me if anybody else reported this same customer. I went back to our files and told him "no", that we had not had any reports from anybody else. He asked if everybody was reporting these figures or these names and I said "No, National is not." Shortly after that, Spreckels

(7538) stopped reporting names. Then they all stopped. The members stopped furnishing me with the names of these customers and I stopped circulating the lists some time at the end of March 1929.

I began circulating the names of customers to the members of the Institute some time after May 1929. That was a totally different class of names. Those were names of buyers who had refused to take out their contract sugars and in view of such refusal the refiner, in making that report, had removed that buyer's name from his list of customers. The refiners told me that those customers fell

(7539) under that classification. The names which were reported to us were circulated to the entire membership. In substance, we said a customer was reported by a refiner and

the refiner had removed the name of that customer from the list of people with whom he was doing business. Exhibit 419–L–2 is an example of such a list.

Judge Ballou instructed me to receive these reports and make up the lists which I circulated to the members. When the first report came in he called me into his office and told
(7540) me we were to receive these reports from then on and that I was to take charge of circulating them. He told me he wanted to arrive at a uniform heading to go over these names, and he and I sat down then and worked out the wording that appears at the heads of those lists. He told me that I was, under no condition, to make any comments or add anything further to that heading without his express permission. I never asked for permission to add anything further and I followed the instructions that he gave.

A member of the Institute reported to me he had begun again to sell a customer whose name he had previously reported as having been removed from his list. When such reports came in I wrote new headings for those and had the judge approve them. The gist of that information was that a member who previously reported this man had now reinstated his name in his list of customers. Exhibit 419–D–4 is such a report.

(7605) I have never seen exhibit 419–W–3 in connection with my work in the Institute. I do not know the incident and I did not take Henderson to task for having sold a customer after his name was removed from the Institute
(7606) list. To the best of my knowledge, I do not know of anyone in the Institute who called Henderson to task in this particular instance.

(7643) I examined the copies of circulars which I sent to members containing the names of customers reported to me as having been in default on their contracts. I found 147 had been reported. I found that the same name had been reported twice; in one case, three times, but I could not tell you if it had been reported by the same refiner twice or by two different refiners. It was not reported on the same day. The dates were different—from a month to a year later. I
(7541) found about half a dozen of such instances. In these reports I did not include the name of the refiner who made the report to the Institute.

In connection with these reports I had requests of refiners to supply them with information in addition to that shown on the list. In such cases I communicated with the refiner who had originally made up the report and asked him why he had removed that customer's name, and asked him to find out what the trouble was. When we received that information we sent it on to the member who had made the

request of us to get it. We never disclosed the name of the refiner who reported the customer.

There was no set time for circulating the lists. We sent
(7544) them out as fast as they came in to us. The reports came in very irregularly. The number of customers who had been reported is around thirty.

RIDER 21:

JOHN L. MANY, JR.

(8740) I am familiar with the credit reports of the Institute. We used the notices that some refiner had dropped a customer from his list just as we did credit information from a credit bureau. We felt that if a buyer repudiated a contract with one of our competitors the chances were that he would at some time repudiate one of our contracts. However, if we thought it advisable to sell him in face of that, we could do so. There was no compulsion about it. It was a matter of our own choice. We continued to sell buyers who were dropped by other refiners.

Exhibit X–7 is my letter of March 25 to the Institute. It
(8741) was also addressed to McCarthy, our broker in Birmingham, Alabama. At the time of a market movement the broker would wire in a long list of persons to whom sales were made. McCarthy sandwiched in a car for Wood along with other customers, in spite of our refusal to sell Wood, and
(8742) nobody noticed it. One day Barkerding, American's sales manager, called my attention to the fact that we were selling that house. We said we were not selling, and asked me about it. I was very much embarrassed and apologized because we had made an announcement that we were not going to sell the house and then went ahead and did so. I do not blame Barkerding for that. He was right.

(8743) In my letter to our broker in Birmingham, exhibit 410–W–3, I referred to Barkerding calling me to task.

No one in the Institute ever suggested to me how I should use these credit reports or that I should not restore a customer to our list, once I had dropped him.

If I had told all other refiners that new evidence justified sales to Wood, we might have sold him again, but in the absence of advising the other refiners that we had changed our attitude, I think it was unfair to competitors.

RIDER 22:

CHARLES B. CASTLE

(8943) I have seen the lists circulated by the Institute containing the names of the refiners' customers who have defaulted on their contracts and who have been removed from

(8944) the refiners' lists. These reports come regularly to the sales and credit department and we read them.

Bruyn told us that as far as those lists were concerned, (8945) they represented lists that other refiners had of customers (8946) who had defaulted under their contracts. He said those lists were to have no effect on our policy. He also told us that, as far as our selling those customers were concerned, our own experience with them was to be the factor which would influence us as to whether or not we wanted to continue to do business with them.

I have made a study recently as to our sales and deliveries to customers shown on the Institute's list. I received from Fisher a file of the Institute's credit reports and gave it to a man working under me. I asked him to go to the customers' delivery records and make a list of the volume of deliveries that were taken by each customer on that list (8947) prior to the month of the notice and a period six months after that. To the best of my knowledge he followed my instructions and gave me exhibit H–8 for identification. There was in the list that Fisher gave me the names of customers whom we were selling and the names of those whom we were not selling. To the best of my knowledge this represents our sales and deliveries to customers for the (8951) period I have mentioned.

The absence of sales or delivery records of any of the customers shown in exhibit H–8 for identification indicates we delivered no sugar to them during that period. It consists of the delivery records of all the customers who are listed on the reports contained in the exhibit.

RIDER 23:

GOETZINGER

In the past Arbuckle has refused to sell sugars to buyers (9317) because they defaulted on their contracts. Normally the decision as to whether Arbuckle should refuse or not refuse to continue to sell one of its customers was made by me. We used the expression, "So-and-so has been cut off", to denote the fact that we had decided to sell a customer no longer. There have been about a dozen instances during the (9318) past five years that we have cut off customers from our list.

Arbuckle never cut off a buyer from its list because a name had been circulated by the Institute as having defaulted on a contract with some other refiner.

I have made a study of our business relations with such of the customers shown on exhibit Y–8 as have had accounts with Arbuckle during the past few years. Exhibit Z–8 is the list that has been prepared. I indicated the (9321) date of the last sale which our organization made to these

customers. The fact that some of the last sales were 1930–31
was not due to the fact that we were disinclined to sell
(9322) them but that we had not received any business from them.

I am familiar with the case of S. P. Pinnell & Company, who were cut off in May 1927. This is an instance of a customer having been removed before the Institute was organized and for some reason reported at a later date. The four customers at the top of the list are instances in which the names were reported by us to the Institute.

RIDER 24:

MARK W. LOWE recalled

Direct examination by Mr. WYATT:

(9326) I am assistant sales manager of Pennsylvania, which in the past has refused to sell sugar to buyers for breach of contract or because of a question of the buyers' financial responsibility. In most instances I decide whether or not
(9327) we are to sell a buyer. In the past five years there have been about 20 instances that we have refused to sell sugar to our customers. I reported these instances to the Institute.

The Institute reports of customers listed as defaulting under contracts come to my desk. I take no action other than to glance at them and place them in a file. I did not give any instructions or have any discussion as to whether or not we should sell customers shown on that list. I did not make a record of the information furnished by the
(9328) Institute on the credit cards of our customers.

I had a study made by our organization of the customers of our company shown on exhibit Y–8. I instructed them to make a careful examination of the credit files and statistical records of sales and deliveries to determine whether we sold any of these accounts, and if so when we sold them and what deliveries, if any, were made during the six months' period immediately following the date the names were circulated by the Institute.

RIDER 25:

JOHN W. LOWE

(9856) I have charge of Revere's sales and operations. We have refused to sell sugar to customers for various reasons. Our practice in that particular has not changed since the formation of the Institute.

The Institute's credit reports shown in exhibit 419–E–4 have come to my attention. I did not give any instructions to any members of our organization in connection with the names of customers shown on the reports. I did not refuse to sell sugar to any of our customers by reason of the fact that their names had been reported to the Institute.

I have had a study made by our organization as to delivery to customers shown on exhibit Y–8. I asked them to give me a sheet showing the date the customer was circulated, his name and address, and a record of his dealings
(9357) with us, if any, during the past five years and during the six months subsequent to the date of circularization. Exhibit T–9 is a copy of a report rendered pursuant to my instructions.

II. ADDITIONAL APPELLEE'S EXHIBITS DESIGNATED BY APPELLEE'S PRÆCIPE

Exhibit 265

THE AMERICAN SUGAR REFINING COMPANY,
520 North Michigan Avenue, Chicago, Illinois, July 2, 1930.

W. H. EDGAR & SON,
1924 W. Lafayette Blvd., Detroit, Michigan.

GENTLEMEN: There is appended hereto copy of a statement released to the press on Saturday, June 21st, 1930, by the Sugar Institute, Inc.

For your further information and guidance please be advised that the board of directors of the Institute has provided additional administrative measures designed to insure observance of the code of ethics on the part of members, brokers, and others concerned through the exercise of disciplinary authority after proven breach of the code of ethics. The Institute now has the authority listed below to enforce the code of ethics:

1. To impose a fine upon the member of the Institute involved, not exceeding $1,000, and in the case of a sale of sugar found to have been made under the circumstances which amounts to a violation of the code of ethics by such member, by the imposition of an additional fine in an amount not exceeding 10 percent of such sale.

2. To recommend to the board of directors the expulsion or suspension of such member, if such member for a previous offence shall have been subjected to a fine.

3. To recommend to the board of directors the discipline and/or discharge of any employee of a member if such employee shall have been found to have been knowingly involved in a transaction amounting to a violation of the code of ethics.

4. To recommend to the board of directors the disqualification of any broker found to have knowingly violated the code of ethics.

Our company has given its unreserved endorsement to the code of ethics and has pledged its support to the rules and regulations of the Sugar Institute, Inc.

For the western district I have been charged definitely with the responsibility of seeing that all employees, brokers, and others involved in the sale and distribution of the company's products likewise give complete and unreserved adherence to the code of ethics.

Any dereliction on their part will be dealt with in accordance with the procedure recited herein, in addition to which all employees or brokers who are found to have knowingly violated the code of ethics will be called upon to pay any fine assessed upon this company.

Will you please so advise all concerned within your organization, acknowledging your receipt and understanding of this communication.

Very truly yours,

M. B. MURPHY,
Sales Manager.

Exhibit 265

THE SUGAR INSTITUTE, INC.,
129 Front Street, New York.

For release newspapers of June 21st, 1930.

STATEMENT OF FRED G. TAYLOR, ACTING EXECUTIVE SECRETARY, THE SUGAR INSTITUTE, INC.

NEW YORK, June 20th.—At a meeting attended by the executives of all the sugar refiners of the country the work of the Sugar Institute for the past year was reviewed. The industry unanimously committed itself to maintain the Institute and to enforce strictly its code of ethics with members, brokers, or others doing business with its members.

While unsettled conditions in the raw-sugar market have brought increased difficulties to refiners and statistics of the industry show a small recession for the first six months of the year from the record of distribution of last year, yet due to smaller supplies in the hands of the public, and the fact that refined sugar is selling at the lowest price in a generation, the refiners expect an unusually heavy summer demand.

Exhibit 266

GODCHAUX SUGARS, INC.,
New Orleans, July 11th, 1930.

To Our Brokers:

In order that you may be fully advised of the recent action of the board of directors of The Sugar Institute, Inc., as regards disciplinary measures for any proven breach of the code of ethics, we quote you the following from the resolutions adopted by unanimous action of the board of directors of The Sugar Institute, Inc.:

1. To impose a fine upon the member of the Institute involved not exceeding $1,000, and in the case of a sale of sugar found to have been made under the circumstances which amounts to a violation of the code of ethics by such member by the imposition of an additional fine in an amount not exceeding 10% of such sale.

2. To recommend to the board of directors the expulsion or suspension of such member, if such member for a previous offense shall have been subjected to a fine.

3. To recommend to the board of directors the discipline and/or discharge of any employee of a member if such employee shall have been found to have been knowingly involved in a transaction amounting to a violation of the code of ethics.

4. To recommend to the board of directors the disqualification of any broker found to have knowingly violated the code of ethics.

As we have previously advised you, our company fully subscribes to all the rules and regulations of The Sugar Institute, Inc., and are putting forth every effort to give full support thereto, and we expect the same of you. We, therefore, at this time wish to advise you of the disciplinary authority which has been granted by the members

of The Sugar Institute, Inc., to its executive officers, so that if you should knowingly violate any of the code of ethics, you will be on notice that you are subject to the actions as outlined therein.

Please see that all of your associates or employees are fully advised as to the contents of this letter and let us have your prompt acknowledgment of same.

Yours very truly,

CHARLES GODCHAUX,
President.

Exhibit 267

GODCHAUX, SUGARS, INC.,
New Orleans, Aug. 11, 1930.

To Our Brokers:

In order that we may have a record that you have received our letter of July 11th, and so that we may know that you are thoroughly in accord and perfectly clear as to the resolutions of the board of directors of the Sugar Institute as listed therein, we will ask that you let us have an acknowledgement to our letter, which our records indicate you failed to make.

Yours very truly,

GODCHAUX, SUGARS, INC.,
CHARLES GODCHAUX,
President.

Exhibit 268

JULY 11th, 1930.

To Our Brokers:

In order that you may be fully advised of the recent action of the board of directors of the Sugar Institute, Inc., as regards disciplinary measures for any proven breach of the code of ethics, we quote you the following from the resolutions adopted by unanimous action of the board of directors of The Sugar Institute, Inc.:

1. To impose a fine upon the member of the Institute involved not exceeding $1,000, and in the case of a sale of sugar found to have been made under the circumstances which amounts to a violation of the code of ethics by such member by the imposition of an additional fine in an amount not exceeding 10% of such sale.

2. To recommend to the board of directors the expulsion or suspension of such member, if such member for a previous offense shall have been subjected to a fine.

3. To recommend to the board of directors the discipline and/or discharge of any employee of a member if such employee shall have been found to have been knowingly involved in a transaction amounting to a violation of the code of ethics.

4. To recommend to the board of directors the disqualification of any broker found to have knowingly violated the code of ethics.

As we have previously advised you, our company fully subscribes to all the rules and regulations of The Sugar Institute, Inc., and are

putting forth every effort to give full support thereto, and we expect the same of you. We, therefore, at this time wish to advise you of the disciplinary authority which has been granted by the members of The Sugar Institute, Inc., to its executive officers, so that if you should knowingly violate any of the code of ethics, you will be on notice that you are subject to the actions as outlined therein.

Please see that all of your associates or employees are fully advised as to the contents of this letter and let us have your prompt acknowledgement of same.

Yours very truly,

W. H. EDGAR & SON.

Exhibit 402

THE SUGAR INSTITUTE, INC.,
July 14, 1930.

For the Information of Members:

Godchaux advises under date of July 12th that they have circulated the following:

"In order that you may be fully advised of the recent action of the board of directors of The Sugar Institute, Inc., as regards disciplinary measures for any proven breach of the code of ethics, we quote you the following from the resolutions adopted by unanimous action of the board of directors of The Sugar Institute, Inc.:

1. To impose a fine upon the member of the Institute involved not exceeding $1,000, and in the case of a sale of sugar found to have been made under the circumstances which amounts to a violation of the code of ethics by such member by the imposition of an additional fine in an amount not exceeding 10% of such sale.

2. To recommend to the board of directors the expulsion or suspension of such member, if such member for a previous offense shall have been subjected to a fine.

3. To recommend to the board of directors the discipline and/or discharge of any employee of a member if such employee shall have been found to have been knowingly involved in a transaction amounting to a violation of the code of ethics.

4. To recommend to the board of directors the disqualification of any broker found to have knowingly violated the code of ethics.

As we have previously advised you, our company fully subscribes to all the rules and regulations of The Sugar Institute, Inc., and are putting forth every effort to give full support thereto, and we expect the same of you. We, therefore, at this time wish to advise you of the disciplinary authority which has been granted by the members of The Sugar Institute, Inc., to its executive officers, so that if you should knowingly violate any of the code of ethics you will be on notice that you are subject to the actions as outlined therein.

Please see that all of your associates or employees are fully advised as to the contents of this letter and let us have your prompt acknowledgment of same."

Exhibit 402a

THE SUGAR INSTITUTE, INC.,
129 Front Street, New York, July 7th, 1930.

To All Members of the Sugar Institute:

GENTLEMEN: Savannah Sugar Refining Corporation advises they have sent the following registered letter to all their brokers, concerning the late rulings of the Institute:

"At the June meeting of the Sugar Institute, it was agreed that unfair practices could be eliminated by the imposition of fines on those members, their agents or representatives who knowingly deviated from the code of ethics. We will quote below the announcement made on June 21, 1930, by the Sugar Institute, Inc.:

'For your further information and guidance please be advised that the board of directors of the Institute has provided additional administrative measures designed to insure observance of the code of ethics on the part of members, brokers, and others concerned through the exercise of disciplinary authority after proven breach of the code of ethics. The Institute now has the authority listed below to enforce the code of ethics:

'1. To impose a fine upon the member of the Institute involved, not exceeding $1,000, and in the case of a sale of sugar found to have been made under the circumstances which amount to a violation of the code of ethics by such member, by the imposition of an additional fine in an amount not exceeding 10 percent of such sale.

'2. To recommend to the board of directors the expulsion or suspension of such member, if such member for a previous offense shall have been subjected to a fine.

'3. To recommend to the board of directors the discipline and/or discharge of any employees of a member if such employee shall have been found to have been knowingly involved in a transaction amounting to a violation of the code of ethics.

'4. To recommend to the board of directors the disqualification of any broker found to have knowingly violated the code of ethics.'

"We are quite sure that our officials, our general brokers, and their corresponding brokers are more than anxious to live up to the code of ethics of the Sugar Institute, Inc., in all respects; however, under this new ruling it will be necessary for any punishment to be inflicted on the guilty, and we feel the fairest manner in which to handle this is to see that the guilty party is the one who pays the fine. Taking this into consideration, please consider this letter as advice from us that we will hold your company responsible for any fines imposed on us through the knowing fault or delinquency of your company or any of your employees. This situation is of such great importance that we are sending an extra copy of this letter to you with the suggestion that you frame and hang it in a prominent place in your offices so that all of your employees will become familiar with these rulings.' In order that there will be no discrimination, all

brokers and representatives of refiners who are members of the Sugar Institute will receive from their principals a notice similar to this one.

"We appreciate to the fullest extent the cooperation your firm has given us, and feel assured of your assistance in preserving the Institute's code of ethics, which we believe will place the entire sugar business on a higher plane.

"Very sincerely yours,

"(Signed) B. O. SPRAGUE,
President."

Very truly yours,

THE SUGAR INSTITUTE, INC.,
FRED G. TAYLOR,
Executive Vice Secretary.

Exhibit 402 B

WM. HENDERSON,
749 South Peters St., New Orleans, July 14th, 1930.

For your information and guidance please be advised that the board of directors of the Institute has provided additional administrative measures designed to insure observance of the code of ethics, on the part of members, brokers, and others concerned, through the exercise of disciplinary authority after proven breach of the code of ethics. The Institute now has the authority listed below to enforce the code of ethics:

1. To impose a fine upon the member of the Institute involved not exceeding $1,000, and in the case of a sale of sugar found to have been made under the circumstances which amounts to a violation of the code of ethics by such member by the imposition of an additional fine in an amount not exceeding 10% of such sale.

2. To recommend to the board of directors the expulsion or suspension of such member if such member for a previous offense shall have been subjected to a fine.

3. To recommend to the board of directors the discipline and/or discharge of any employee of a member if such employee shall have been found to have been knowingly involved in a transaction amounting to a violation of the code of ethics.

4. To recommend to the board of directors the disqualification of any broker found to have knowingly violated the code of ethics.

The firm of Wm. Henderson is solidly behind the code of ethics and the various rules and regulations of The Sugar Institute, Inc. We, therefore, particularly call your attention to the measures quoted above and advise you you will be held strictly accountable if you are found to have knowingly violated the code in any way.

Please acknowledge receipt of this circular letter which will indicate you understand the situation clearly and are thoroughly aware of your accountability.

WM. HENDERSON.

Exhibit 402 C

[SAVANNAH SUGAR REFINING CORPORATION.]

THE AMERICAN SUGAR REFINING COMPANY,
120 Wall Street, New York, June 24, 1930.

Mr. W. VAN V. WARREN,
Sales Manager, New England District, Boston.
Mr. J. W. MOONEY,
Sales Manager, Eastern District, New York.
Mr. J. A. MONET,
Sales Manager, Central District, Baltimore.
Mr. H. A. BARKERDING,
Sales Manager, Southern District, New Orleans.
Mr. M. B. MURPHY,
Sales Manager, Western District, Chicago.
Mr. W. W. FRAZIER, JR.,
Sales Manager, Franklin Sugar Refining Co., Philadelphia.

DEAR SIR: There is appended hereto copy of a statement released to the press on Saturday, June 21st, 1930, by the Sugar Institute, Inc.

For your further information and guidance please be advised that the board of directors of the Institute has provided additional administrative measures designed to insure observance of the code of ethics on the part of members, brokers, and others concerned through the exercise of disciplinary authority after proven breach of the code of ethics. The Institute now has the authority listed below to enforce the code of ethics:

1. To impose a fine upon the member of the Institute involved, not exceeding $1,000, and in the case of a sale of sugar found to have been made under the circumstances which amounts to a violation of the code of ethics by such member, by the imposition of an additional fine in an amount not exceeding 10% of such sale.

2. To recommend to the board of directors the expulsion or suspension of such member, if such member for a previous offense shall have been subjected to a fine.

3. To recommend to the board of directors the discipline and/or discharge of any employee of a member if such employee shall have been found to have been knowingly involved in a transaction amounting to a violation of the code of ethics.

4. To recommend to the board of directors the disqualification of any broker found to have knowingly violated the code of ethics.

Our company has given its unreserved endorsement to the code of ethics and has pledged its support to the rules and regulations of The Sugar Institute, Inc. Each sales manager, as to his respective sales district, is hereby charged definitely with the responsibility of seeing that all employees, brokers, and others involved in the sale and distribution of the company's products, likewise give complete and un-

reserved adherence to the code of ethics. Any dereliction on their part will be dealt with in accordance with the procedure recited herein, in addition to which all employees or brokers who are found to have knowingly violated the code of ethics will be called upon to pay any fine assessed upon this company. You will please so advise all concerned under your jurisdiction, acknowledging your receipt and understanding of this letter.

Yours very truly,

(Signed) R. S. STUBBS,
Vice President.

Exhibit 403

DECEMBER 8, 1930.

MR. FRED G. TAYLOR,
Executive Vice-Secretary, The Sugar Institute, Inc.,
129 Front Street, New York, N. Y.

DEAR MR. TAYLOR: In section 1, page E–2, dated August 1, 1930, of the code of ethics, articles A, B, C, D, and E have to do with the proposed fine of one thousand dollars ($1,000) plus an additional fine of ten percent for sales of sugar made contrary to the code of ethics.

It is my understanding that this section has never been made operative. Am I correct?

Yours very truly,

REVERE SUGAR REFINING CO.

Exhibit 403a

THE SUGAR INSTITUTE, INC.
129 Front Street, New York, December 10, 1930.

MR. JOHN W. LOWE,
Revere Sugar Refinery, 333 Medford Street, Charlestown, Mass.

DEAR MR. LOWE: Replying to your letter of December 8th, in which you inquire concerning the provision of section I of the code of ethics wherein the executive committee is "given power and authority * * * to impose fine upon such member not exceeding $1,000, and in the case of a sale of sugar found to have been made under circumstances which amount to a violation of the code of ethics by such member, an additional fine in an amount not exceeding 10% of such sale;" will say that this section is operative and the executive committee may at any time exercise its authority under the provisions of that code ruling.

It is true, however, that up until the present time no such authority has been exercised, nor has such fine been imposed upon any member.

Trusting that this sufficiently answers your question, we are

Very truly yours,

THE SUGAR INSTITUTE, INC.
FRED G. TAYLOR,
Executive Vice-Secretary.

Exhibit 404

JULY 1, 1930.

JOS. W. ELLIOTT & COMPANY,
Philadelphia, Pa.

DEAR SIRS: For your information and guidance please be advised that the board of directors of the Institute has provided additional administrative measures designed to insure observance of the code of ethics, on the part of members, brokers, and others concerned, through the exercise of disciplinary authority after proven breach of the code of ethics. The Institute now has the authority listed below to enforce the code of ethics:

1. To impose a fine upon the member of the Institute involved, not exceeding $1,000, and in the case of a sale of sugar found to have been made under the circumstances which amounts to a violation of the code of ethics by such member, by the imposition of an additional fine in an amount not exceeding 10 percent of such sale.

2. To recommend to the board of directors the expulsion or suspension of such member, if such member for a previous offense shall have been subjected to a fine.

3. To recommend to the board of directors the discipline and/or discharge of any employee of a member if such employee shall have been found to have been knowingly involved in a transaction amounting to a violation of the code of ethics.

4. To recommend to the board of directors the disqualification of any broker found to have knowingly violated the code of ethics.

The code of ethics with its various interpretations, together with the rules and regulations of The Sugar Institute, Inc., have the unreserved support of this company. Therefore, we acquaint you, our brokers, with the facts, at the same time serving notice upon you to the effect that you will be held strictly accountable in the event that you are found knowingly to have violated the code of ethics.

Your acknowledgment of this letter will indicate that you are thoroughly conversant with the facts and that you are entirely aware of your accountability within the subject matter of this letter. Therefore, please be good enough to let us have such an acknowledgment.

Yours very truly,

THE W. J. MCCAHAN SUGAR REF. & MOL. CO.,
WM. O. STANTON, *Asst. Vice President.*

Wm. O. Stanton.
HB.

Exhibit 404A

JULY 14, 1930.

JOSEPH W. ELLIOTT & CO.,
Philadelphia, Pa.

DEAR SIRS: We note with regret that up to the present time we have not received your reply to our letter of July 1st, concerning additional administrative measures, provided by the Institute, which

are designed to insure observance of the Code of Ethics, on the part of members, brokers, and others concerned

In order that our files may be completed will you please let us have your reply as soon as possible?

Yours very truly,

THE W. J. McCAHAN SUGAR REF. & MOL. CO.,
WM. O. STANTON, *Asst. Vice President.*

Exhibit 404B

JOSEPH W. ELLIOTT & CO.,
145 South Front Street, Philadelphia, July 17, 1930.

THE W. J. McCAHAN SUGAR REF. & MOL. CO.,
101 South Front St., Philadelphia, Pa.

GENTLEMEN: We have before us your letter of July 1st concerning administrative measures provided by the Institute, and we will be governed accordingly.

Very truly yours,

JOSEPH W. ELLIOTT & CO.

Exhibit 405

JULY 1st, 1930.

CONNORS BROK. CO.,
Memphis, Tenn.

DEAR JACK: I noticed what you said about 60 days time on 30-day contracts and am going to carry a little message to you which might almost be considered a violation of confidence because it is strictly an Institute proposition. I quote the rule passed last month as regards any member of the Institute, his employee, or his broker who violated the code of ethics and its various interpretations. The rule goes on to say that after due opportunity to be heard shall have been given to any member against whom any such finding or to the employee, or broker, this disciplinary body shall "impose a fine upon such member not exceeding $1,000, and in the case of a sale of sugar found to have been made under the circumstances which amount to a violation of the code of ethics by such member, an additional fine in an amount not exceeding 10% of such sale."

Now, it may be that somebody in one of these refineries is taking a chance, but as the organization has the right to check books and more than that, check contracts and how they are executed and correspondence pertaining thereto, you can see mighty easily that even if a C. & H. contract, for example, read 30 days and was not shipped until 50 or 55 days, it could be easily caught up with and somebody's head would fall in the basket or somebody's pocketbook would receive a severe shock.

Now you know I am going to help you in every possible way but the simplest and best proposition is for you to get that big line of open contracts booked June 5th lined up as regards specifications and simply tell me to do my best in getting them out, indicating what ones you want to put last, if it can be handled that way. I have not the slightest desire to jam our good Tennessee friends but I must have those specifications by due date of contracts which is end of the week.

Three points I might call your attention to—we can take care of Mize's N. O. delivery and will attend to that. Saunders, Nashville, contract is in process of liquidation but we will need to put up in that market a big car and want you to find out from Mr. Roman just what assortment. Don't forget his stores up there will have to take that assortment and if you leave it until due date of contract we might just as well ship the car direct to the stores. If you do not do that you can see yourself we shall have to call in Woolwine to help adjust this stock and that is just going to take money out of your pocket without doing anybody any good. I am trying to work it so that you can get full brokerage on those Nashville deliveries.

We also put 10's and 5's in stock in commercial warehouse at Little Rock so if Saunders needs any there he can draw against those items.

This recent advance did not have very much steam to it and I do not honestly believe anybody got away with big sales. Practically all the trade has a feeling that they can beat 4.60 on resales but whether they can actually do that or not remains to be seen. I have some good friends right here in town who are entirely out of their 4.50 bookings and yet would not book a single sack at 4.60 in spite of my best arguments.

Yours truly,

WM. HENDERSON.

Here is the list of open items:

Saunders, 366.
" (Nashville), 1000 sx.
Hurley, 1,200 sx.
Clayton, H. 400 sx.
Belmont, 800.
Mize, 230.
" (N. O.), 330.
Love, 400.
Saunders (Greenville), 400.
Smythe, 400.
Johnston, 400.
Gilmer, 400.

Exhibit 406

JULY 1, 1930.

Mr. FRED G. TAYLOR,
Executive Secretary,
The Sugar Institute, 129 Front Street, New York City.

DEAR SIR: On the 6th of June 1930, following a similar announcement by another refiner, we advised you, as executive secretary of the Sugar Institute, that from that date until further notice we would meet conditions as we found them in our territories.

The serious situation which arose on account of the general breaking down of the code of ethics, resulting in the above announcements, was brought up for discussion at the meeting which was held on June 19th, at which time the Institute adopted a more concentrated form of organization, together with severe penalties for infractions of the code of ethics, including fines, and vested the power in the executive committee to recommend to the members the dismissal of employees and brokers for violation of the code. The representative of this company voted agalnst these penalties for the reasons set forth in said meeting. Insofar as fines are involved, we wish to advise the Institute that in the opinion of our counsel the Institute has no legal right to impose fines; that we cannot agree to the imposition of fines, neither can we agree to the outside control of any part of our organization. We doubt the efficacy of such penalties to accomplish the desired result, and question the advisability of adopting the radical methods referred to.

We wish, however, as always, to cooperate in the observance and maintenance of the principles of the Institute, to assist in carrying into effect any constructive suggestions, and to give the Institute an opportunity to find out if it will be possible to remedy the present situation through the new form of organization; and to aid in accomplishing these aims we advise you that our notice to you of June 6th is hereby withdrawn, such withdrawal to be effective from and after this date and until further notice.

Very truly yours,

COLONIAL SUGAR REFINING CO.
WALTER S. BARTLETT,
Vice President.

Exhibit 414

N. C.: Do we still sell Olender?

L. V. PLACE.

Apr. 4th Cont.

Exhibit 414A

Mr. PLACE: Yes, sir; we are selling Olender. As a matter of fact there is a balance on an April 4th contract of 417 bags at $4.70. We are assuming that papers are in the mail showing completion.

STANTON.

Exhibits 414B and 414C

N. C.: In view of this I guess it is up to us to remove his credit. Other refiners have sometimes failed to follow this action in similar cases. Certainly I would not be in favor of cutting off any really good buyer, but in the case of Olender——? What do you think?

L. V. P.

P. S.—We might stall by writing the institute for further information as "credit information."

L. V. P.

Exhibit 414D

Mr. PLACE: Olender & Son have never been anything to brag about as a customer. However, we haven't had very much trouble with them recently in payment of their invoices. Therefore, since they are practically our only outlet in Detroit, I think we might stall along and defer blacklisting them as long as possible.

STANTON.

Exhibit 414E

W. O. S.: You may care to discuss this matter with Lamborn. If we wish to "stall" I think the thing to do is to ask the institute for further details as a matter of "credit information."

The understanding with Abbott, Hoodless, etc., is that no name circulated is to be sold by other refiners—at least not without discussing the subject openly. On the other hand it has been stated that other refiners are entitled to information regarding events leading to blacklisting. Otherwise it might be possible for one refiner to trump up charges against another refiner's customers in order to disqualify them.

L. V. P.

Exhibit 414 F

MAY 27, 1930.

THE SUGAR INSTITUTE, INC.,
129 Front Street, New York, N. Y.

DEAR SIRS: Referring to your notice of May 20th, in order that our credit records may be complete, will you kindly furnish us any further information which you may be able concerning the removal of A. Olender & Son, Detroit, Michigan, from the list of customers of the refiner involved?

Yours very truly,

NORMAN CROCK.
H. B.

Mr. Fisher called on the telephone at about 11 a. m. 5/28 to ask just what kind of information we wanted. I replied that in the past

certain refiners have been adverse to blacklisting a buyer (who deals correctly with them) just merely because some misunderstanding has arisen with some other refiner. We want to know if such is the case with Olender whose transactions with us are perfectly satisfactory. Later Mr. Fisher called me back to say that the only information he could get was that the refiner in this case demanded "cash in advance" and Olender refused it. I stated to Mr. Fisher that I thought this was the fault of the refiner in not specifying "cash" terms at the time the contract was placed (there having been no recent change in Olender's credit standing that I knew of). The next move is up to us.

5/28 L. V. P.

At Institute meeting May 29th, Weston stated Olender should not have been blacklisted.

6/3/30 STANTON.

Exhibit 414 G

H. B.: Please keep these notes attached—do not destroy.

STANTON.

Exhibit 414 H

W. M. M.: What is Olender's credit position?

5/28 L. V. P.

Exhibit 414 I

Mr. PLACE: Sometime ago, say 2 yrs. ago, Olender were very slow with us but we continued to sell them on Lamborn's recommendation. On 8/25/29 we increased the credit to $2,500 & have since continued it. Recent bills have been paid quite O. K.

Recent rating in Dun & Brad. are as good as heretofore. Dun, 20/35/2; Brad., 20/35/1.

We do not have recent complete statements & report.

At this time we see no great danger in continuing this line or at least say $1,500, especially if we ask Lamborn again what they now think of Olender.

Jews—

Maybe the refiner who blacklisted wanted cash because contract enforcement would cause a normal credit limit to be far exceeded—maybe the normal line was $2,500 & Olender had 1,000 or 2,000 bags on contract & couldn't take them out in compliance with Refiner's wishes.

Olender seems to be one of our chief Detroit customers.

5/28

Exhibit 414 J

N. C.: What are your views now? (See note at bottom of our letter.)

5/28 L. V. P.

Exhibit 414 K

Mr. PLACE: While it doesn't make a great deal of difference to me, I should like to see us continue to sell Olender, if possible.

I think we might be justified in inquiring whether or not the refiner who had blacklisted Olender had cancelled the contract or had resold the sugars and billed Olender with the loss involved. If Olender had been billed with the loss and had refused to pay it, then we probably ought to abide by the blacklisting; but if Olender had not been given the opportunity to get out from under the blacklist then we might be able to sell them.

STANTON.

Exhibit 414 L

W. O. STANTON:

I agree with you that we should try to retain Olender—at least he should have a chance to clear himself.

May 28, 1930

Exhibit 414 M

INSTITUTE

(Att. Mr. Evan T. Fisher):

Referring to our letter of May 27th and telephone conversations between Mr. Fisher and Mr. Place on May 28th we should appreciate it very much if you could obtain still further information for us concerning the blacklisting of A. Olender & Son.

Exhibit 414 N

Will you please advise us whether the contract covering the sugar which Olender refused to withdraw was cancelled or whether it was resold for Olender's account? If the former was true, has Olender been given an opportunity to pay the charge of liquidation, or if the latter was true, has Olender been given a bill for any charges incident to the resale? It is our understanding that, in either case, if the charge is paid, Olender may be reinstated as a customer.

Exhibit 414 O

Mr. PLACE: Do you think this letter will be satisfactory?

STANTON.

Exhibit 414 P

N. C.: See my memo of meeting 5/29, now being typed.

O. K.—2:30 p.

L. V. P.

Exhibit 419L2

THE SUGAR INSTITUTE, INC.,
November 27, 1929.

Mr. Stubbs:
Mr. White:

Notify offices concerned.
C. H. W.: Pls. do so.

The following buyers have been reported to the Institute as having refused to complete their contracts; the refiner reporting has removed the buyers' names from his list of customers.

North Carolina:
Britt, L. T., Wendell.
United Wholesale Company, Raleigh.
Watts, Sam, Auburn.

Exhibit 419M2

DECEMBER 3, 1929.

Mr. W. W. FRAZIER, JR.,
Philadelphia, Pa.

Mr. J. A. MONET,
Baltimore, Md.

DEAR SIR: Will you please arrange to have removed from your list the following named customers:

North Carolina:
Britt, L. T., Wendell.
United Wholesale Co., Raleigh.
Watts, Sam, Auburn.

Very truly yours,

C. H. WHITE, JR.,
General Sales Manager.

Exhibit 419V3

JUNE 20, 1930.

Mr. H. F. BARKERDING,
New Orleans, La.

DEAR MR. BARKERDING: The Hammond Wholesale Company has been reported to us by the Sugar Institute as having breached contract of an Institute member. Please do not sell this concern again before communicating with us.

Yours very truly,

_____,
General Sales Manager.

Exhibit 419 W 3

JULY 3d, 1930.

R. G. McCARTY BROK. CO.,
Birmingham, Ala.

DEAR SIRS: It was not until today that our attention was called to the fact that we inadvertently confirmed an order through you on June 16th at 4.50 to V. W. Wood & Co. who as you will probably recall repudiated a contract back in Jany. at 5.10 basis. We have been properly called to task for selling a customer after we advised the Institute that they had not lived up to contract obligations and this is an instruction on our part for you not to submit their business any more.

Yours truly,

WM. HENDERSON,

Exhibit 419 A 4

SAVANNAH, GA., *July 31, 1930.*

THE SUGAR INSTITUTE, INC.,
129 Front St., New York, N. Y.

GENTLEMEN: This is to notify you that we have placed the G. E. Miley Company of Walterboro, S. C., in breach of contract. He booked 800 bags with us on June 30th at 4.60, and repeated endeavors on our part have failed to secure specifications from him. This is the first time we have attempted to do business with him and we had him on a cash basis. We are unwilling to ship him a car on sight draft basis as he would only refuse the same, and we would have no other person in Walterboro who could dispose of the sugar.

Very truly yours,

SAVANNAH SUGAR REFINING CO.,
———— ————, *Vice President.*

Exhibit 419 D 4

NOVEMBER 24TH, 1930.

Referring to our circular letter of October 6th, advising that one of the Institute members had placed the United Grocery Company, Reading, Pa., in breach of contract, we have now received advice that this firm has been reinstated.

THE SUGAR INSTITUTE, INC.

Exhibit 419 E 4

THE SUGAR INSTITUTE, INC.,
129 Front Street, New York, November 26th, 1930.

The following buyer has been reported to the Institute as having refused to complete his contract; the company reporting has removed the buyer's name from his list of customers.

This is the second time this buyer has been reported in breach of contract.

THE SUGAR INSTITUTE, INC.

Alabama:
Birmingham, V. W. Wood & Company.

Exhibit 446A

[Western Union]

JUNE 22, 1928 (10:30 a. m.).

W. EDWARD FOSTER,
117 Wall Street, New York, N. Y.:

Due to fact that water contract rates into Chicago have been used and according to our brokers large quantities of sugar have already moved under those rates, we are left with our normal distribution in that territory on hand in our warehouse. We have at this time 100,000 tons of sugar on hand and more yet to arrive; a certain percentage of which must be distributed in river markets during present season. Our reason for moving sugars to New Orleans was to have them there to be able to take advantage of barge rates. The fact that we are practically shut out of Chicago as long as these contract rates are used, and the fact that they have been used, makes it necessary for us to take this precaution. We will therefore have to distribute in Indiana, Ohio, Kentucky, and Tennessee to extent that we are shut out of Chicago territory. We are not contemplating placing any sugars from New Orleans in Arkansas.

F. E. SULLIVAN.

(Charge J. D. & A. B. Spreckels Investment Co.)

Exhibit 446A

[Western Union]

JUNE 22, 1928, 1:34 p. m.

FRANK E. SULLIVAN,
2 Pine Street, San Francisco, Calif.:

Thanks for your telegram. Believe it would help situation materially with some of our southern friends if you could see your way clear to omit Kentucky and Tennessee in your proposed distribution.

W. EDWARD FOSTER.

CDVR 110 32 NM—CD New York, N. Y., 22.

Exhibit 446B

[Western Union]

JUNE 25, 1928 (9:45 a. m.).

W. EDWARD FOSTER,
117 Wall Street, New York, N. Y.:

Thank you for your wire twenty-second. As suggested we will omit Kentucky and Tennessee in distribution for the present.

F. E. SULLIVAN.

Chg. J. D. & A. B. Spreckels Investment Co.

Exhibit 446C

[Western Union]

JUNE 25, 1928 (11:15 a. m.).

W. EDWARD FOSTER,
117 Wall Street, New York, N. Y.:

Our brokers advise us that Godchaux has sugars stored in practically every town of any consequence in State of Illinois and is delivering not only to jobbers but also to retailers and small chains of two and three stores in lots of two to five bags per day. Condition is reported as deplorable and trade in central portion of State greatly exercised over these conditions. Moreover, this is absolutely killing our distribution in that territory Stop. The question arises how long can we refrain from meeting conditions as we find them Stop. The fact that large buyers have taken advantage of contract water rates to Chicago, Milwaukee, and Duluth terminals has also had a serious effect on our distribution. Foregoing for your information.

F. E. SULLIVAN.

Chg. J. D. & A. B. Spreckels Investment Co.

Exhibit 446D

WESTERN SUGAR REFINERY,
2 Pine Street, San Francisco, Calif., June 25, 1928.

Mr. W. EDWARD FOSTER,
117 Wall Street, New York City, N. Y.:

On account of cane competitive conditions particularly with Godchaux we feel it necessary to offer our sugars in Tennessee and Kentucky in order get distribution.

F. E. SULLIVAN.

Charge Western Sugar Refinery.

(Exhibit 446E)

[Memorandum]

JUNE 27, 1928.

Mr. E. T. RABJOHN:

For fear that several matters of importance may escape my mind by the time you return, I thought it advisable to put these items on paper, of which this is the only copy, and you can dispose of it as you see fit.

You will recall the other night I wired you that after having seen Mr. Sullivan several times, and discussing with him the substance of your conversation with Hamaker, also Meinrath's letter of June 23d and his telegram of the 25th, he authorized me to wire Meinrath to offer our sugar in Tennessee and Kentucky at competitive terms.

I also sent a wire, approved by Mr. Sullivan, to Mr. W. Edward Foster, the substance of which was that on account of cane competitive conditions, particularly from Godchaux, we would have to enter these States in order to maintain our distribution. You, of course, know the story of the previous wires sent Foster. There has been no answer received from Foster, this I ascertained, but would like to cite a few announcements which have been made by various refiners within the last few days:

"American first announced would guarantee Oklahoma, and has since followed with announcement would guarantee all Western cane competitive territory. They had first announced would be firm from $5.80 to $5.90 close of business Tuesday, but since C. & H. and ourselves did not follow, extended advance to opening business Thursday.

"They have also announced application of lake and rail rates in Bend's territory on deliveries ex warehouse, in lots of 360 bags or more."

We have absolutely no advantage of any kind in any market in the East, and their transit time is considerably less from factories.

M. R. OBITZ.

Exhibit 446F

WESTERN SUGAR REFINERY,
2 Pine Street, San Francisco, January 14, 1929.

JUDGE SIDNEY BALLOU,
Executive Sec'y,
The Sugar Institute, 129 Front Street, New York, N. Y.

DEAR JUDGE BALLOU: Mr. Rabjohn has called to my attention your telegram of January 10th with reference to sugar bought at Fort Wayne, Indiana, which ends as follows: "Am interested in following this to a finish. Kindly investigate and advise."

You will remember that after we went into Indiana, Ohio, Kentucky, and Tennessee there was considerable complaint about our having done so. In deference to the desires of our eastern friends we withdrew from that territory. We had commenced to get satisfactory business and the brokers were apparently taking an interest in our brand of sugars, but when they found out that we were going to withdraw, and did withdraw, they let down on us completely, with the result that we have certain frozen stocks (concessions a/c) throughout the territory which we must move. If we cannot move them at five cents off, then we must do so at ten cents or even twenty-five cents off. When and as these different lots are closed out, we will advise you just how the transactions were handled.

Sincerely yours,

F. E. SULLIVAN.

III. ADDITIONAL APPELLANTS' EXHIBITS DESIGNATED BY APPELLEE'S PRÆCIPE

Exhibit G

Say nothing—just turn this over in your mind. I just had a talk with Harold Brown. Believe I can talk to him. He says he can probably give us what we want. See! He has, of course, negotiations that should be considered. He will give you what you want—you can come up and do the negotiating, so decide what you're going to do—he should negotiate with you fairly and if not, throw it overboard. You can decide if you want to come up and go into it or not. Have no more to say—get me?—but let me know what you're going to do.

Chinal's conversation with Patterson Friday a. m., May 15th, 1931.

Exhibit H

MAY 14TH, 1931.

MEMO

In talking with Mr. M. Chinal, representative of the Sugar Institute, this afternoon, he advised that there is no question but what the Institute would be willing to pay dearly for any information which would give them evidence or cause for criminal action against W. H. Edgar & Son. In the course of his conversation he talked from $100,000 to $200,000.

He advised the thing to do, if the writer was interested, would be to call Mr. Taylor, head of the Institute, and tell him just what the situation was and that he would suggest that the lawyers come out here, if they were interested, and open negotiations with me.

Drove him back to room 1483 at the Fort Shelby and put him to bed, and he put in call for Mr. Taylor, whom they reported was out for a walk. He also called Mr. Patterson, who also was out. This morning he advised he talked to Mr. Patterson last night but forgot what he called him for.

He put a call in for New York and talked to Patterson, and attached is copy of his conversation. He advised that letter of credit, of irrevocable funds would be established in the Bank of Windsor, or would have the funds transferred to any bank agreeable to the writer, if negotiations were completed.

HAROLD L. BROWN.

My personal opinion is that this proposition is being made with the idea of discrediting us with the Institute—and refiners—by creating the idea that we know something and will only double-cross Edgar if there is money involved for me personally. Advised Beebe of Edgar. Also McFarren heard conversation yesterday afternoon.

Exhibit R–1

No. 1869.

THE SUGAR INSTITUTE, INC.,
New York, July 10, 1930.

The National City Bank of New York
55 Wall Street, New York, N. Y.

Pay to the order of Louis E. Chinal, $1,260.59, 1,260. 59 cts. dollars.

THE SUGAR INSTITUTE, INC.,
FRED G. TAYLOR,
Executive Secretary.

THE SUGAR INSTITUTE, INC., CASH VOUCHER

No. 277. July 10, 1930. $1,260.59.
Payee: Louis E. Chinal.
Charge: Investigation expense.
Details: Investigation expenses per attached bill.
Approved: F. G. T., *Executive Secretary*, *Office Manager*.
Check no. 1869.

Hotel Severin, Indianapolis

To: Louis E. Chinal.
From: The Sugar Institute, Inc., New York City.

June 1st to 30th (less 5 days off) 25 days, at $25.00 per day	$625.00
Traveling expenses, Indianapolis to St. Louis to Quincy to Detroit to Indianapolis (1,326 miles), Indianapolis to Danville, to Springfield, to St. Louis, to Springfield, to Danville, to Westville, to Danville, to Detroit (1,043 miles).	
Total mileage, 2,369	260.59
Hotels, meals, etc	300.00
Typewriting, taxis, tips, telephone, etc	75.00
	1,260.59

O. K.: F. G. T.
Received payment, thanks. Louis E. Chinal.

Exhibit F–6

MINUTES OF CREDIT MEETING

Pursuant to carrying out the purposes of the Institute in the formation of a credit department, a meeting was held at the Princeton Club on Friday evening, July 6th, 1928.

The following were present:

Messrs. G. P. Engel, Colonial.
Edw. M. Kent, American.
Geo. M. Haley, Arbuckle.
T. F. Schlieder, Federal.

W. H. Quin, National.
Mark W. Lowe, Pennsylvania.
C. H. Moore, Revere.
E. J. Bush, W. M. Mankin, McCahan.
Fred G. Taylor, Evan T. Fisher, Sugar Institute.

Mr. Taylor asked for frank expressions of the members of the group as to whether in their opinion the Institute could be of service by creating a so-called credit department and clearing information for the Institute members. This question was discussed at length. Mention was made of the fact that they already had access to practically all of the credit information desired through their connection with the credit interchange bureau, to which they all had access. After a prolonged discussion it became the apparent concensus of opinion that there was certain information which might be cleared for the exclusive use of the Institute members that would be of such value as to justify the formation of a credit department.

The various forms of trade abuse that affect credit departments was discussed in detail, and several examples of such practices were presented by the different credit representatives present. Out of this discussion there came the suggestion that the Institute establish a credit department and that it attempt to clear information regarding all forms of trade abuse in which they were interested and particularly that class of information that was not being supplied by the credit interchange bureau. This suggestion was unanimously supported by those present.

Some of the items that were thought to be important as tentative suggestions for consideration in the establishment of this work, and regarding which exchange information might advantageously be made, were as follows:

1. Practices of buying corporations, who with limited capital sometimes demand large credit for their principals and wherein principals assume no financial responsibility.
2. The taking of unearned discounts.
3. The cancelation of contracts or the violation of their terms.
4. Issuing of checks against insufficient funds.
5. Arbitrary deduction for any unwarranted cause.
6. Abuse of arrival dates.
7. All other irregular practices that are an offense against proper business relations between buyer and seller.

The method of further development of the plan was discussed and Mr. Taylor proposed that an executive committee be appointed to cooperate with the Institute in carrying out the purposes discussed. He also suggested that for a time it would be advantageous for the credit group to meet once a month until the department was in working order, and thereafter as frequently as mutual advantage seemed to suggest.

Mr. Quin of the National Sugar Refining Company was nominated and unanimously sustained as chairman of the executive committee,

and he appointed as the members of his committee, Mr. Engel of Colonial Sugars Company, and Mr. Schlieder of the Federal Sugar Refining Company.

There being no further business, the meeting adjourned to the call of the chairman of the executive committee.

W. H. QUIN, *Chairman.*
EVAN T. FISHER,
Acting Secretary.

Exhibit G-6

THE SUGAR INSTITUTE, INC.,
129 Front Street, New York, February 25, 1929.

To all Members of the Sugar Institute:

Subject: Contract enforcement—Reports.

GENTLEMEN: In view of misunderstanding which has been found to exist, members are again requested to report the names of customers and the number of bags not withdrawn in accordance with their contracts at the end of contract period, as follows:

1. Such reports should be made weekly as of the close of business on Saturday.

2. The customer's name, address, and number of bags unwithdrawn should be repeated each week until the contract is finally cleared up.

3. Refiners having no unwithdrawn balances should report that fact regularly, as there is a great difference between a report of no unwithdrawn balances and no report at all.

Adherence to the above rules will enable the Institute to distinguish between occasional lapses soon remedied and those habitual delinquents whose continued failure to live up to their contracts makes them proper subjects for credit reports.

Very truly yours,

SIDNEY BALLOU,
Executive Secretary.

Exhibit H-6

THE SUGAR INSTITUTE, INC.,
129 Front Street, New York, March 2nd, 1929.

To all Members of the Sugar Institute:

Subject: Unwithdrawn balances after expiration of contract as of March 2nd.

GENTLEMEN: The names on the following list have been reported to the Institute by two or more refiners this week as having unwithdrawn balances at the expiration of a contract period. With the exception of L. V. Menard, New Orleans, Louisiana, and C. D. Robinson Company, St. Paul, Minnesota, all of these firms were reported last year:

Caplan Grocery Company, Pittsburgh, Pa.
Davis Wholesale Grocery Co., Mobile, Ala.

Keystone Stores Corporation, Pittsburgh, Pa.
Lagarde, M. L., New Orleans, La.
Lakeland Grocery Co., Lakeland, Fla.
Menard, L. V., New Orleans, La.
Merchants Grocery Co., Dothan, Ala.
Robinson, C. D., Co., St. Paul, Minn.
Steinberg Mass Co., Houston, Texas
Weathers Grocery Co., Dothan, Ala.
Wiregrass Grocery Co., Dothan, Ala.
Newton Grocery Co., Dothan, Ala.

The following list of names has also been reported by two or more refiners this week. These firms were reported several times last year:

A. & P., New York, N. Y.
Blackman Flour & Feed, Dothan, Ala.
Capital City Grocery, Atlanta, Ga.
City Wholesale, Inc., Griffin, Ga.
Jackson Grocery Co., Dothan, Ala.
Ricau, George S., Co., New Orleans, La.
Sophie Mae Candy Co., Atlanta, Ga.
Tyler Wholesale Co., Wagener, S. C.
United Grocery Co., Rome, Ga.

Very truly yours,

SIDNEY BALLOU,
Executive Secretary.

Exhibit I–6

REVERE SUGAR REFINERY,
333 Medford Street, Charlestown, Mass., February 18, 1931.

Mr. FRED G. TAYLOR,
Executive Vice Secretary, The Sugar Institute, Inc.,
129 Front Street, New York, N. Y.

DEAR MR. TAYLOR: Last summer one of our competitors placed a customer in breach, due to his failure to take delivery of sugars at the expiration of the allotted time.

We have continued business relations with this customer, and have been subject to some criticism by competitors because we have not severed business relations.

I submit to you this customer's contract performance for the last seven contracts, and will be interested to learn if you and the executive committee consider that the record as a whole shows evidence of bad faith, either on our part or on the part of the customer. In other words, do you feel that we, in this particular instance, are properly the subject of just criticism?

Yours very truly,

JOHN W. LOWE, *Manager.*

FEBRUARY 27TH, 1931.

Mr. JOHN W. LOWE, Jr.,
Revere Sugar Refinery,
333 Medford Street, Charlestown, Mass.

DEAR JOHN: Replying to yours of February 18th, in which you refer to the matter of having served a customer who was put in breach by one of your competitors, will say that this is not a subject for Institute discussion or correspondence since the Institute has never attempted to prevent any member from serving a customer who may have been put in breach by another member. Our action has been wholly one of circulating the facts in such cases and letting the members use their own judgment.

Your record with this concern may indicate either one of two things:

(1) That the customer was in fact a customer worthy of credit; and/or,

(2) That your competitor who put him in breach taught him a valuable lesson.

You are, no doubt, in better position to draw conclusions in the matter than we are.

Very truly yours,

THE SUGAR INSTITUTE, INC.,
FRED G. TAYLOR,
Executive Vice Secretary.

Stipulation regarding Exhibit J-6

It is hereby stipulated that exhibit J-6 contains six credit report sheets for the years 1922, 1923, 1924, and 1925 taken from the files of appellant W. J. McCahan Sugar Refining & Molasses Co. regarding the standing of six of its customers. These six report sheets contain respectively the following notations:

"10/31/23. Blacklisted until pays up."

"5/23/23. Blacklisted as we had to make threat of suit, as they would not pay our draft."

"1925. Blacklisted because lack signed contracts 6,906 of 1924."

"2/26/24. Contract 832-o refused and we blacklisted the account, being unable to enforce the contract through lawyer."

"1922. Blacklisted because they did not pay a balance of $8.00, which was deducted by them after a drop of the market."

"1/5/25. Blacklisted because wrote Lamborn declining to sign contracts."

WALTER L. RICE,
Solicitor for Petitioner.
SULLIVAN & CROMWELL,
Solicitors for Defendants.

Exhibit X–7

Credit resale

WM. HENDERSON,
749 South Peters St., New Orleans, Mar. 25th, 1930.

The SUGAR INSTITUTE, INC.,
New York, N. Y.

DEAR SIRS: Please be advised that V. W. Wood & Co., of Birmingham, have refused to accept delivery of balance due them on contract Jan. 7th at 5.10 basis. We are therefore taking their name off of our books and will no longer quote them our product.

Yours truly,

WM. HENDERSON.

Exhibit B–10

SUMMARY

Total number of concerns circularized by Institute	140
Of this number (140) an examination of records back to January 1, 1912 discloses that American never delivered to	55
Concerns circularized to whom American has delivered	85
Of this number (85) American's last delivery was made more than six months prior to date of circularization to	20
Balance	65
Of this number (65) American has made deliveries within six months following circularization to	33
Balance	32
Of this balance of (32) American reported	19
Balance	13
Of this balance of 13, deliveries were made by American at some time subsequent to six months after circularization to	8
Balance	5

Exhibit J–16

SUMMARY

Record of sales of various defendants to concerns the names of which were circulated by the Institute as credit information (as compiled from statistics in evidence as defendants' exhibits H–8, I–8, Z–8, A–9, T–9, B–10, C–10, and M–10).

Total number of concerns circularized by the Institute (eliminating duplications)	140

American

(Exhibit B–10)

*(a) Number of American customers circularized	66
(b) Number sold by American since date of Institute report	41
(c) Number sold by American within 6 months after date of Institute report	33

* Not including those reported by refiner, where shown on exhibit.

Revere

(Exhibit T–9)

* (a) Number Revere customers circularized	5
(b) Number sold by Revere since date of Institute report	4
(c) Number sold by Revere within 6 months after date of Institute report	3

C. & H.

(Exhibit M–10)

* (a) Number of C. & H. customers circularized	16
(b) Number sold by C. & H. since date of Institute report	12
(c) Number sold by C. & H. within 6 months after date of Institute report	6

National

(Exhibits H–8 and I–8)

* (a) Number National customers circularized	28
(b) Number sold by National since date of Institute report (not shown).	
(c) Number sold by National within 6 months after date of Institute report	23

Arbuckle

(Exhibit Z–8 and C–10)

* (a) Number Arbuckle customers	18
(b) Number sold by Arbuckle since date of Institute report	16
(c) Number sold by Arbuckle within 6 months after date of Institute report	13

Pennsylvania

(Exhibit A–9)

* (a) Number Pennsylvania customers circularized	23
(b) Number sold by Pennsylvania since date of Institute report	17
(c) Number sold by Pennsylvania within 6 months after date of Institute report	7

* Not including those reported by refiner, where shown on exhibit.

Exhibit Q–17

All of McCahan's sales to Olender Sugar Co. since January 7, 1928

1928		1929—Continued	
Feb. 21	18 bags	" 5	46 bags
Oct. 10	400 "	" 5	500 "
Nov. 10	400 "	Apr. 4	5 "
" 12	100 "	" 19	4 "
		" 29	189 "
1929		May 10	500 "
Jan. 9	60 "	June 24	750 "
" 11	30 "	July 9	300 "
" 14	58 "	Nov. 19	27 "
" 15	60 "	" 25	45 "
" 17	600 "	" 29	87 "
Feb. 26	39 "	Dec. 10	42 "
Mar. 1	75 "	" 17	300 "

1930		bags
Feb.	10	18 "
"	11	35 "
"	14	28 "
"	18	18 "
"	20	20 "
Feb.	24	20
Mar.	7	1,000 "
Apr.	4	500 "
May	29	28 "
June	2	50 "
"	16	600 "
Aug.	29	200 "
Oct.	9	200 "
"	9	200 "
"	24	100 "
Dec.	16	18 "
"	16	70 "
"	17	10 "
"	23	5 "

1931		bags
Jan.	7	400 "
Feb.	24	51 "
"	28	7 "
Mar.	2	35 "
"	2	26 "
"	4	5 "
"	5	14 "
"	10	7 "
"	11	35 "
"	12	7 "
"	13	5 "
"	17	14 "
"	25	300 "
May	11	15 "
"	16	15 "
"	25	25 "
"	26	20 "

The following are descriptions substituted for appellee's exhibits in lieu of printing by agreement of the parties:

Exhibits

O—Savings bank book of C. G. Edgar.

T—Letter of June 26, 1928, from C. G. Edgar to the Federal Trade Commission and letter of July 2, 1928, from C. G. Edgar to Judge Ballou, enclosing a copy thereof.

Y–8—Document entitled "Credit Reports—Lists of Buyers circulated by the Sugar Institute under the following classification: 'The following buyer has been reported to the Institute as having refused to complete his contract; the refiner reporting has removed the buyer's name from his list of customers'."

Z–8—List of deliveries by Arbuckle to buyers after they had been reported to the Institute as having refused to complete their contracts and circulated by the Institute.

A–9—List of deliveries by Pennsylvania to buyers after they had been reported to the Institute as having refused to complete their contracts and circulated by the Institute.

T–9—List of deliveries by Revere to buyers after they had been reported to the Institute as having refused to complete their contracts and circulated by the Institute.

B–10—List of deliveries by American to buyers after they had been reported to the Institute as having refused to complete their contracts and circulated by the Institute.

C–10—List of deliveries by Arbuckle to buyers after they had been reported to the Institute as having refused to complete their contracts and circulated by the Institute.

M–10—List of deliveries by C. & H. to buyers after they had been reported to the Institute as having refused to complete their contracts and circulated by the Institute.

United States District Court, Southern District of New York

E–59–103

THE SUGAR INSTITUTE, INC., ET AL., APPELLANTS

against

UNITED STATES OF AMERICA, APPELLEE

Stipulation regarding accuracy of narrative statements

It is hereby stipulated and agreed by and between the parties hereto:

1. That the narrative statement lodged by the appellants with the clerk of the district court is a correct narrative of the testimony which it purports to cover.

2. That the narrative statement attached to appellee's praecipe requesting the inclusion of additional portions of the record is a correct narrative of the testimony which it purports to cover.

3. That neither party waives its objection to the immateriality or incompleteness of the narrative statement submitted by the other party.

SULLIVAN & CROMWELL,
Solicitor for Appellants.
WALTER L. RICE,
Solicitor for Appellee.

Filed July 3, 1935.

United States District Court, Southern District of New York

E–59–103

THE SUGAR INSTITUTE, INC., ET AL., APPELLANTS

against

UNITED STATES OF AMERICA, APPELLEE

Order approving statement of evidence

The statement of evidence in narrative form, prepared, lodged, and submitted by appellants for approval, a copy of which is attached hereto, is hereby approved as being a true, complete, and properly prepared statement of the evidence received on the trial of this cause and relevant to the questions presented on the appeal.

The additional statement of evidence in narrative form, attached to "Appellee's praecipe for additional portions of the record", and the exhibits of appellee and appellant designated in said praecipe of appellee are certified to be correct but are not to be included in the transcript of the record on appeal, said statement and exhibits not

being essential to the decision of the questions presented by the appeal.

Dated, New York, July 3, 1935.

JULIAN W. MACK,
Circuit Judge.

Filed July 3, 1935.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

E–59–103

THE INSTITUTE, INC., ET AL., APPELLANTS

vs.

UNITED STATES OF AMERICA, APPELLEE

I, Charles Weiser, clerk of the District Court of the United States of America for the Southern District of New York, do hereby certify that the foregoing is a correct transcript of the record of the said district in the above-entitled matter as requested by praecipe of appellee.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the Southern District of New York, this 6th day of August in the year of our Lord one thousand nine hundred and thirty-five and of the Independence of the said United States the one hundred and sixtieth.

[SEAL] CHARLES WEISER, *Clerk.*

United States District Court, Southern District of New York

E–59–103

THE SUGAR INSTITUTE, INC., ET AL., APPELLANTS

against

UNITED STATES OF AMERICA, APPELLEE

Supplemental praecipe for additional portions of the record

The clerk of the United States District Court for the Southern District of New York will please prepare the following additional portions of the record in this cause, which were not included in appellee's original praecipe for additional portions of the record, and certify the same to the Supreme Court of the United States:

1. The following paragraphs of exhibits 21–26 (minutes of directors' and executive committee meetings):

(*a*) The paragraphs on pages 446, 448, 449, 477, and 481 of said exhibits dealing with fines and penalties.

(*b*) The paragraphs on pages 503, 536, 537, 559, and 578 of said exhibits dealing with voluntary assessments.

(*c*) The paragraphs on pages 55, 62, 67, 119, 248, 341, 368, and 383 of said exhibits dealing with a credit bureau and credit reports.

2. The stipulations regarding exhibits 349 and 350 attached to the clerk's certificate regarding supplemental praecipe.

3. Stipulation regarding supplemental praecipe.

4. Order regarding supplemental praecipe.

5. Clerk's certificate regarding supplemental praecipe.

6. This supplemental praecipe.

ANGUS D. MACLEAN,
Assistant Solicitor General.
WALTER L. RICE,
Special Assistant to the Attorney General.
Solicitors for Appellee.

Service of the foregoing supplemental praecipe and receipt of a copy thereof is hereby admitted and acknowledged this 29th day of August 1935.

SULLIVAN & CROMWELL,
Solicitors for Appellants.

Excerpts from exhibits 21–26

(Minutes of Sugar Institute directors' and executive committee meetings)

Minutes of special meeting of members of June 19, 1930, pp. 445–446

Resolved, That the executive committee of the board of directors * * * be charged with the following special powers and duties in addition to the general powers and duties conferred or charged by the bylaws:

* * * * * * *

(1) Impose a fine upon such members not exceeding $1,000, and in the case of a sale of sugar found to have been made under the circumstances which amount to be a violation of the code of ethics by such member, an additional fine in an amount not exceeding 10% of such sale;

(2) Recommend to the board the expulsion or suspension of such member, if such member for a previous offense shall have been subjected to a fine.

Minutes of directors' meeting of June 19th, 1930, pp. 448–449

The chairman reported that there had been a special meeting of members that day at the Midday Club, and the members had recommended the adoption by the board of the following resolution:

Resolved, That the executive committee of the board of directors be constituted of five members, to consist of Messrs. Moog, Goetzinger, Hoodlees, Spreckels, and Post, and that said committee be charged with the following special powers and duties in addition to the general powers and duties conferred or charged by the bylaws:

(a) To study the severely unfavorable conditions which have overtaken the refining and marketing of sugar in the United States, with a view particularly, if possible, to suggest means to procure a better distribution and increased consumption of the product.

(b) To constitute themselves into a disciplinary body of the Institute to examine into alleged violations of the code of ethics and interpretations thereof, whether by members, brokers, or others; and to that end they shall receive and examine complaints, conduct examinations into the facts, hear evidence, and make findings. The committee is hereby given the power and authority, upon finding that there has been a breach of the code of ethics subsequent to the date hereof, after due opportunity to be heard shall have been given to any member against whom any such finding shall be made, to—

(1) Impose a fine upon such member not exceeding $1,000, and in the case of a sale of sugar found to have been made under the circumstances which amount to a violation of the code of ethics by such member, an additional fine in an amount not exceeding 10% of such sale;

(2) Recommend to the board the expulsion or suspension of such member, if such member for a previous offense shall have been subjected to a fine;

(3) Recommend the discipline and/or discharge of any employee of a member, if such employee shall have been found to have been knowingly involved in a transaction amounting to a violation of the code of ethics;

(4) Recommend the disqualification of any broker found to have knowingly violated the code of ethics.

Minutes of executive committee meeting of July 16th, 1930, p. 477

Mr. Rolph's telegram: Mr. Rolph's telegram was discussed and Mr. Cummings pointed out that the Institute now had the power by a vote of the majority of the board of directors to expel any member and that the idea of a fine grew out of a feeling that expulsion was too drastic and that there should be some penalty not quite so severe. He also pointed out that the bylaws of the Institute, giving the board authority to expel any member, were in accordance with the Federal and State laws and had the approval of the Attorney General. In case a fine was imposed on any member, he would, of course, have the right to resign, in which case the fine would not be collectible in Mr. Cummings' opinion. However, on the other hand, if the member paid the fine he would still be accepted in full standing.

Minutes of executive committee meeting of July 23rd, 1930, p. 481

He also stated that he had pointed out to Mr. Tyler that fines are not illegal; that the entire code of ethics is believed to be legal, and that a fine which is imposed for doing something which is not only contrary to the code, but also illegal, cannot be objected to on legal grounds.

Mr. Cummings stated that he would have a conference with Mr. Tyler on the morning of the 24th [day] of July 1930, and would endeavor to reconcile their difference of opinion.

Minutes of executive cammittee meeting of August 13, 1930, p. 503

Resolution covering voluntary assessment: The committee instructed Mr. Taylor to place on the agenda for the directors' meeting of September 25th in the form of a resolution, to be drawn up by Mr. Cummings, the subject of a voluntary assessment of 10¢ per bag to be paid on undelivered balances of contracts on the 37th day.

Minutes of directors' meeting of September 25, 1930, pp. 536–537

Voluntary assessment: The question of a voluntary assessment for failure to effect delivery in accordance with the provisions of sales contracts was discussed at length. It was the unanimous opinion that such a practice would have a salutary effect upon the contract enforcement program. It was unanimously voted to refer the matter back to the executive committee with a request that they work out the details of the amount of the assessment and its effective date; make provisions for any exceptions that may appear necessary under the operation of the plan.

The committee was also requested to ascertain the attitude of the domestic sugar bureau toward the adoption of such a plan.

Minutes of executive committee meeting of October 15th, 1930, p. 559

Voluntary assessments—Letter from Savannah: The Executive vice-secretary read a letter from Savannah regarding the voluntary assessment. Savannah seemed to think that the minutes of Sept. 25 had not been correctly written and that the committee should have been instructed to lay out a plan for the voluntary assessment and then to bring the final plan again to the attention of the directors. The committee believed that the minutes were correct as written, and pointed out that if Savannah objected to the details of the plan, when worked out by the committee, they would have fifteen days in which to register a formal objection.

Minutes of directors' meeting of November 20, 1930, p. 578

Voluntary assessment: The question of a voluntary assessment for failure to effect delivery in accordance with the provisions of sales contracts, which had been discussed at the directors' meeting September 25th, was again discussed. Mr. Moog reported on behalf of the executive committee that it had not yet been able to work out the details of the amount of the assessment, its effective date, and exceptions. The board voted to table the matter until further information and details could be obtained.

Minutes of directors' meeting of May 10th, 1928, p. 55

The establishment of a credit bureau was discussed and the executive secretary was instructed to establish such a credit bureau and to secure the necessary clerical force.

Minutes of executive committee meeting of May 29th, 1928, p. 62

The question of establishing a credit department was discussed at length. It was reported by the executive secretary that some thought had been given to the matter of employing a high-class credit man and going rather extensively into the assembling of credit information. Mr. Goetzinger referred to the relatively small losses that occurred in sugar sales and rather discouraged the employment of any skilled talent to function along the lines suggested. After some discussion it seemed to be the consensus of opinion that a good statistical clerk might clear all of the information that would be necessary or needful and that the Institute should not attempt any extensive credit work but rather devote itself particularly to the assembling of the total of credits extended to each buyer, to the clearance of those accounts which were chronic slow payers, those attempting to take discounts after the expiration of the discount period, and also those who resist delivery at the expiration of contract.

Minutes of directors' meeting of June 14th, 1928, p. 67

The report of progress on the matter of establishing a credit department was made by Assistant Secretary Taylor, he stating that he was in conference with credit men of a number of firms with the idea of determining just what activities should be brought into this department, and expected an early clearance of their opinions.

Minutes of executive committee meeting of September 25th, 1928, p. 119

The executive vice-secretary read a report from a committee of credit men giving reasons for not proceeding further with the plan of forming a credit department. This report was discussed

at length. With reference to the suggestion that the work would be a duplication of the work of the individual credit departments, it was pointed out that the exchange of information concerning buyers whose financial standing might be good but who were habitually slow in withdrawing sugar according to contract or paying within the discount period, would be information of value not covered by the present activities. It was finally agreed that another meeting of credit men should be called in the near future.

Minutes of executive committee meeting of May 16th, 1929, p. 248

Credit reports: Members were requested to report to the Institute all cancellations of contracts or portions thereof for any reason whatsoever. If such cancellation is on account of a default or repudiation by the buyer and the buyer's name is on that account removed from the refiner's list of customers, that fact will be circulated by the Institute, without recommendation, as a credit item.

Minutes of executive committee meeting of November 21st, 1929, p. 341

Credits: On motion duly made, seconded, and unanimously carried, the enforcement committee was directed to consider, in conjunction with counsel for the Institute, and report upon the establishment of a credit bureau within the Institute to receive reports from members of customers who defaulted upon their contracts.

Minutes of the second annual meeting of the board of directors, January 16th, 1930, p. 368

Credit bureau: The vice secretary read a letter from Mr. Cummings regarding the creation of a credit bureau in which he advised that our purpose was legal but asked that the plan itself be submitted for consideration when it was complete. The matter was referred to the executive committee for further development.

Minutes of executive committee meeting of February 6th, 1930, p. 383

Credit bureau: The vice-secretary read a letter from Mr. Cuming a limited credit bureau for the purpose of clearing information concerning buyers who fail to carry out their contracts. The vice-secretary was instructed to continue making the reports as we are now doing, until such time as the credit department may be instituted.

Supreme Court of the United States

October term, 1935

No. 268

THE SUGAR INSTITUTE, INC., ET AL., APPELLANTS

against

UNITED STATES OF AMERICA, APPELLEE

Stipulation regarding supplemental præcipe

It is hereby stipulated and agreed by and between the parties hereto:

1. That the paragraphs of the minutes of directors and executive committee meetings (exhibits 21–26) designated in appellee's supplemental præcipe, as said paragraphs appear in the stricken portions of exhibits 21–26, filed with the Clerk of the Supreme Court July 22, 1935, and the stipulations regarding exhibits 349 and 350 are correct transcripts of such portions of the record in the District Court.

2. That said paragraphs were omitted from appellee's original præcipe by accident.

3. That appellants consent to the filing of said supplemental præcipe *nunc pro tunc* as of July 3, 1935, and waive any right they may have to object to the failure to designate said paragraphs and said stipulations in appellee's original præcipe or in a supplemental præcipe filed prior to entry of the order approving narrative statement of the evidence.

4. That appellants reserve the right to object to the inclusion of said paragraphs in the record on appeal on the ground that they are immaterial to any questions presented by the appeal.

SULLIVAN & CROMWELL,
Solicitors for Appellants,
ANGUS D. MACLEAN,
Assistant Solicitor General,
WALTER L. RICE,
Special Assistant to the Attorney General,
Solicitors for Appellee.

Dated, New York, August 29, 1935.

United States District Court, Southern District of New York

E 59-103

THE SUGAR INSTITUTE, INC., ET AL., APPELLANTS

against

UNITED STATES OF AMERICA, APPELLEE

Order regarding supplemental præcipe

The paragraphs of the minutes of directors and executive committee meetings (exhibits 21-26) designated in appellee's supplemental præcipe, as said paragraphs appear in the stricken portions of exhibits 21-26 filed with the Clerk of the Supreme Court July 22, 1935, and the stipulations regarding exhibits 349 and 350 are certified to be correct, but said stricken portions of exhibits 21-26 are not to be included in the transcript of the record on appeal, said paragraphs not being essential to the decision of the questions presented by the appeal.

Dated New York, August 29, 1935.

ROBERT P. PATTERSON,
United States District Judge.

United States District Court, Southern District of New York

E 59-103

THE SUGAR INSTITUTE, INC., ET AL., APPELLANTS

against

UNITED STATES OF AMERICA, APPELLEE

Clerk's certificate regarding supplemental præcipe

I, Charles Weiser, clerk of the District Court of the United States for the Southern District of New York, do hereby certify that the attached copies of supplemental præcipe, stipulation regarding supplemental præcipe, order regarding supplemental præcipe, stipulations regarding exhibit 349, and stipulation regarding exhibit 350 are correct transcripts of the record of the said District Court in the above-entitled matter.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed at New York City, New York, in the Southern District of New York, this 29th day of August 1935.

CHARLES WEISER,
Clerk of the Court.

U. S. GOVERNMENT PRINTING OFFICE: 1936